

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 2011 13705  
Issue No.: 2017  
Case No.: [REDACTED]  
Hearing Date: February 16, 2011  
Oakland County DHS (04)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on February 16, 2011. The claimant appeared and testified. [REDACTED] appeared as a witness on behalf of the Claimant. LaShona Callen, Assistant Payments Supervisor, and Lakalia Tademi Smith Assistant Payments Worker appeared on behalf of the Department.

**ISSUE**

Whether the Claimant timely requested a hearing regarding reimbursement for Medicaid premiums and her enrollment in the Medicaid Savings Plan in 2004 or 2005.

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant requested a hearing on December 20, 2010, seeking reimbursement of the Medical Savings program for benefits she asserts she was entitled to in 2004 and 2005 due to an agency coding error. Exhibit 1
2. The Claimant also requested a hearing on January 8, 2010, seeking Medicare Savings program reimbursement. This matter was resolved as evidenced by the withdrawal signed by the claimant indicating she was approved for the program. Exhibits 2 and 3.

3. The Department, as a result of the withdrawal, authorized the Claimant's eligibility effective October 1, 2009. Exhibit 4
4. The Claimant only began paying the Medicare premium in July 2005, as prior to that time she had cancelled her insurance as she could not financially maintain same. Exhibit 4 and Claimant Exhibit 1
5. The Claimant also had requested a hearing on November 16, 2009, regarding the Medicare Savings program which was received December 21, 2010. This hearing request appears to have been attached to the Claimant's December 20, 2010 request.
6. The Claimant and her witness testified that in 2004 or June 2005, the Claimant's caseworker assured her Medicare Savings Program benefits would be corrected and the code fixed in the system and she would receive reimbursement back 10 months.
7. The Claimant's hearing request seeking benefits from 2004 or 2005 for Medicare Savings Program reimbursement is untimely as her request for a hearing is between 5 and 6 years late. Hearing requests must be filed within 90 days of the action complained of.
8. The Claimant requested a hearing on December 20, 2010, protesting the Department's failure to correct her reimbursement for the Medicare Savings program. The Claimant's hearing request was received by the Department on December 21, 2010.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Bridges manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute the legal authority which DHS must follow. It is the manuals that must be considered to determine whether the Department adhered to the policy.

In this case, the issue is not whether the policy regarding the Medicare Savings program was adhered to but whether the Claimant's hearing request was timely. The procedure governing hearings regarding benefit issues and Department actions are contained in BAM 600. BAM 600 dictates when hearings must be requested in order to be timely, it provides:

## **Deadlines for Requesting a Hearing**

### **All Programs**

The AHR or, if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Days as used in this item, mean calendar days unless otherwise specified.

Based upon BAM 600, the Claimant's hearing request is untimely, and therefore her request for hearing must be denied and dismissed as untimely. The Claimant's hearing request was received 5 years after the action taken by the Department for which the Claimant is now seeking a hearing.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Claimant's request for a hearing of December 20, 2010, is untimely and therefore must be denied and dismissed.

  
Lynn M. Ferris  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 02/28/11

Date Mailed: 03/01/11

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LMF/dj

cc:

