

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011 16441
Issue No.: 2017 , 2013
Case No.: [REDACTED]
Hearing Date: February 28, 2011
Wayne County DHS (15)

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 28, 2011. The claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's application for the Medicare Savings Program?

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 applied for the Medicare Savings Program (cost share). The application was denied because the Department determined that the Claimant's countable income exceeds the income limits set by Department policy. The claimant sought to have the Medicare \$94 Part B premium paid with assistance from the State of Michigan. Exhibit 1. Hearing Summary DHS 3050
2. The Department denied the application because the Claimant's income from Social Security (RSDI) exceeded the income limits for the Medicare Savings Program. Exhibit 2
3. The Department determined that the Claimant's monthly unearned income was \$1091. The claimant confirmed that the monthly income amount received by her from social security was correct.

4. The income limit for the Medicare Savings Program for a one member group QMB (Full Benefits) is \$903 per month as established by RFT 242.
5. The income limits for the Medicare Savings Program for a one member group SLM, (Limited Coverage) is \$904 -\$1083 per month as established by RFT 242.
6. The Department did not provide a budget which demonstrated how the Claimant's income ineligibility for the Medicare Savings Program was established. It could not be determined if the \$20 disregard was deducted from the claimant's unearned RSDI gross income.
7. The Claimant is currently eligible for medical assistance and has a spend down amount to be met monthly. The Claimant is a group of one member. The Claimant is disabled.
8. The Claimant filed a request for hearing protesting the Department's denial of the application for the Medicaid Savings Program. The Claimant's request for hearing was received by the Department on September 1, 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 denying the Claimant's application for the Medicare Savings Program.

BEM 165 provides how to determine Financial Eligibility Factors for the Medicare Savings Program:

MEDICARE SAVINGS PROGRAMS FINANCIAL ELIGIBILITY FACTORS Income Eligibility

Income eligibility exists when net income is within the limits in RFT 242 or 249. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible. BEM 165, p. 5

In order to determine whether any deductible was applied against the Claimant's RSDI income when determining countable income, BEM 165 directs that BEM 541 must be consulted. At the hearing, the Department did not establish that the Claimant's monthly

RSDI income through an SOLQ report, and thus even though the \$1091 amount was confirmed by the Claimant at the hearing, the decision of the Department may be incorrect.

The income figure of \$1091 was not established by an SOLQ report, thus, it cannot be determined if it includes the Medicaid Part B premium. Also, because no budget was provided, it cannot be determined whether the \$20 disregard was applied in determining the Claimant's countable income. BEM 541 contains all the allowable deductions to be applied to applicants for Medical Assistance to determine income. It provides for a "\$20 disregard" given to all RSDI recipients when computing income eligibility. It is unclear from the record presented whether the \$20 disregard was applied to the Claimant's unearned income as this deduction might cause the Claimant to be deemed eligible for the Medicare Savings Program, SLM (Limited Coverage program. BEM 541 page 3.

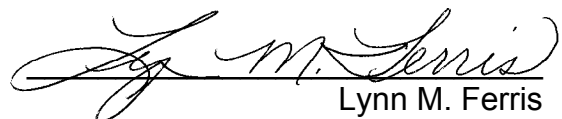
Based upon the foregoing analysis and law, the undersigned finds that the Department's decision to deny the claimant's Medicare Savings Plan application is Reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's decision to deny the Claimant's Medicare Savings Plan application must be and is REVERSED.

Accordingly, the Department is ORDERED:

1. The Department is ordered to reinstate and reprocess the claimant's application for the Medicare Savings Program retroactive to the date of application and process a budget to determine income eligibility for the Medicare Savings Program in accordance with Bridges Policy.
2. If Claimant's eligibility is established as a result of the reprocessing of the application, the Department shall retroactively supplement the Claimant for any reimbursement of Medicaid Part B insurance premiums she is otherwise deemed eligible to receive.



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

Date Signed: 03/30/11

Date Mailed: 03/30/11

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

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