

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

IN THE MATTER OF:



Reg. No.: 2011-15731
Issue No.: 2017
Case No.: [REDACTED]
Hearing Date: February 22, 2011
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 22, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether Claimant established a basis to dispute a three-four year old alleged failure by DHS to issue Medicare Savings Program (MSP) benefits.
2. Whether Claimant is entitled to dispute an issue that arose after the submission of her hearing request.

FINDINGS OF FACT

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

1. Claimant was an ongoing MA recipient also receiving Medicare through Social Security Administration.
2. Claimant states that in 2006-2007 that she paid an unspecified amount for her Medicare Part B premium.
3. On 10/14/10, Claimant requested a hearing disputing the alleged failure by DHS to pay Claimant's Medicare Part B premium from 2006-2007.
4. In 12/2010, DHS mailed notice to Claimant that she was no longer eligible for Medicare premium payment assistance.

5. Claimant also wants to dispute the 12/2010 notice finding her ineligible for assistance with her Medicare Part B premium.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them. MSP is part of the MA benefit program.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, deductibles and coinsurances. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHS funding is available.

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

In the present case, Claimant made two disputes concerning DHS actions on her Medicare Savings Program eligibility. Claimant testified that she did not receive MSP payments from 2006 and 2007 for which she believes that she was entitled. When asked why she would have waited until 10/14/10 to request a hearing to dispute 2006 and 2007 benefit issuances, Claimant stated that she believed she requested a hearing prior to 10/14/10 though she could not say when. Claimant also stated that she was recently advised by someone that she was eligible for MSP in 2006 and 2007 and this information led her to request a hearing.

Claimant's explanations concerning why she waited approximately three years (or longer) to dispute the alleged failure by DHS to issue MSP benefits in 2006 and 2007 are insufficient to excuse her from the 90 day deadline to request a hearing. It is found that Claimant exceeded the time limit to request a hearing concerning her MSP eligibility for 2006 and 2007.

Claimant also stated that she wants to dispute an action by DHS from 12/2010 cutting her MSP benefit eligibility. Again, Claimant has jurisdictional problems that prevent the undersigned from resolving the matter.

All clients have the right to request a hearing. BAM 600 at 1. The circumstances in which a hearing may be granted are: denial of an application and/or supplemental payments, reduction in the amount of program benefits or service, suspension or termination of program benefits or service restrictions under which benefits or services are provided or delay of any action beyond standards of promptness. BAM 600 at 3.

A hearing request frames the issues for administrative hearing. It serves as notice to DHS as to what issues are being disputed. DHS cannot be expected to respond to an issue that arose after the submission of a hearing request, even if the dispute concerned the same program of the original hearing request. Allowing such a procedure would deprive DHS of their rights to prepare and respond to issues in dispute. Clients may always submit multiple hearing requests to dispute multiple DHS actions but may not use a previously submitted hearing request to dispute a subsequent DHS action. It is found that Claimant is not entitled to an administrative remedy of the 12/2010 DHS determination terminating her MSP benefits based on her hearing request dated 10/14/10. Claimant may still submit a separate hearing request if this issue is still in dispute.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish a proper basis of jurisdiction concerning the alleged DHS failure to issue MSP benefits in 2006 and 2007. It is further found that the undersigned has no jurisdiction to consider Claimant's 10/14/10 hearing request concerning actions taken by DHS following Claimant's hearing request. Claimant's hearing request is DISMISSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/28/2011

Date Mailed: 2/28/2011

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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.

CG/jlg

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