

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: 201117519

Issue No: [REDACTED]

Case No: [REDACTED]

Hearing Date:

March 17, 2011

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on December 27, 2010. After due notice, a telephone hearing was held on March 17, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP), Medical Assistance (MA) and Medicare Savings Program Qualified Medicare Beneficiaries (QMB) benefits?

FINDINGS OF FACT

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

1. Claimant was receiving FAP, MA and QMB at all times pertinent to this hearing. (Hearing Summary).
2. Claimant's Senior/Disabled/Veteran (SDV) group size is 1.
3. Claimant received Social Security Insurance (SSI) in the amount of \$878.00 a month. (Department Exhibits 17-19).
4. On November 16, 2010, the department mailed Claimant a Redetermination appointment date of December 2, 2010, by telephone at 1:30 PM. The notice instructs the client that if he does not return the forms and all of the required proof before the due date of December 2, 2010, his benefits may be cancelled or reduced. (Department Exhibits 1-5).

5. A Notice of Missed Interview was mailed to Claimant on December 2, 2010, informing him he had missed his scheduled interview and it was now his responsibility to reschedule the interview before December 31, 2010, or his redetermination would be denied. (Department Exhibit 6).
6. On December 17, 2010, a Notice of Case Action was mailed to Claimant informing him that as of January 1, 2011, his QMB Medicare Savings Program and his Medicaid Program would be closed because he failed to return the redetermination forms. (Department Exhibits 7-10).
7. Claimant turned in his redetermination forms on December 27, 2010. (Department Exhibits 2-5).
8. The department mailed Claimant a Notice of Case Action on January 21, 2011, reinstating his Food Assistance Program for \$44.00 a month because Claimant failed to provide proof of his shelter obligation. (Department Exhibits 10-12).
9. On January 31, 2011, the department mailed Claimant a Notice of Case Action informing him that the shelter obligation had been added to his case which increased his FAP benefits to \$199.00 a month beginning February 1, 2011. The Notice also informed Claimant that his QMB Medicare Savings Program was ongoing and continued beginning January 1, 2011. (Department Exhibits 13-16).
4. Claimant submitted a hearing request on December 27, 2010, protesting the closing of his MA (QMB) and FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

Claimant submitted his hearing request on December 27, 2010, for a hearing on his food stamps and Medicare/Medicaid. During the hearing, Claimant admitted that his food stamps and Medicaid had been reinstated, but that he had received his December FAP benefits in late January and due to the financial hardship this caused him, he wanted damages against the department. Despite Claimant's belief to the contrary, this Administrative Law Judge does not have the authority to award damages. Because Claimant has admitted that his food stamp issue has been resolved, it will not be addressed in this decision.

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 (DHS or department) 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 Bridges Reference Manual (BRM).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). The local office is responsible for determining a Client's eligibility, calculating their level of benefits and protecting their rights. BAM 105.

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. Qualified Medicare Beneficiaries, also called full-coverage QMB and just QMB. Program group type is QMB.
2. Specified Low-Income Medicare Beneficiaries, also called limited-coverage QMB and SLMB. Program group type is SLMB.
3. Q1 Additional Low-Income Medicare Beneficiaries, also referred to as ALMB and as just Q1. Program group type is ALMB. BEM 165.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ. Income is the major determiner of category. A person who is eligible for one of these categories **cannot** choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. All eligibility factors must be met in the calendar month being tested. BEM 165.

Benefits of Medicare Savings Programs differ depending on the program. QMB Benefits pay Medicare premiums and Medicare coinsurances and Medicare deductibles. SLMB Benefits pay Medicare Part B premiums. While ALMB Benefits pay Medicare Part B premiums provided funding is available. The Department of Community Health decides whether funding is available. BEM 165. General information about Medicare and information about the Buy-In program is available in BAM 180.

The department makes separate Medicare Savings Programs determination for the following clients if they are entitled to Medicare Part A:

- Medicare Savings Programs-only.
- Group 2 MA (FIP-related and SSI-related).
- Extended Care (BEM 164).
- Healthy Kids.
- TMA-Plus.

Automatic QMB Person's receiving MA under the following categories and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination. The QMB coverage date begins the calendar month after the processing month. The processing month is the month during which you make the eligibility determination. QMB is not available for past months or the processing month.

SLMB coverage is available for retro MA months and later months. Note: SLMB is only available for months income exceeds the QMB limit. A person cannot choose SLMB in place of QMB in order for coverage to start sooner (example, to get retro MA).

ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. ALMB is not approved for any month that is in a previous calendar year, even if application was made in the previous calendar year.

If person wishes to know whether MA will pay their Medicare premiums before enrolling in Medicare, that person may contact the Department before reaching age 65 (example, during the three months before the person's 65th birthday). The department may advise persons listed under "Automatic QMB" above that MA will pay their Medicare premium. The department will do a determination of eligibility for all other persons. In doing this determination the department will:

- Explain the nonfinancial eligibility factors. Assume they will be met.
- Use current information to determine financial eligibility. Do not ask for verification.
- Explain that changes may affect the actual determination of eligibility.

The department must discuss asset policy thoroughly with the Client if the person's assets exceed the limit. Nonfinancial eligibility factors include that the person must be entitled to Medicare Part A. That means something different for QMB than it does for SLMB and ALMB.

For QMB, entitled to Medicare Part A means the person meets condition 1, 2 or 3:

1. Is receiving Medicare Part A with no premium being charged.
2. Refused premium-free Medicare Part A.
3. Is eligible for, or receiving, Premium HI (Hospital Insurance). Premium HI is what the Social Security Administration calls Medicare

For SLMB and ALMB, entitled to Medicare Part A means the person is receiving Medicare Part A with no premium being charged.

Claimant was mailed a Redetermination on November 16, 2010, requesting a return of the forms before December 2, 2010. The forms were not returned and the department mailed Claimant a Notice of Case Action on December 17, 2010, informing him his QMB Medicare Savings Program would be closed effective January 1, 2011, because he failed to timely return his redeterminations on December 2, 2010.

Claimant testified that the department had stopped paying his QMB of \$115.40 as of December 2010. The department provided SOLQ documentation showing Claimant had never stopped receiving the QMB, and as of January 31, 2011, Claimant received a Notice of Case Action informing him his QMB was being continued effective January 1, 2011.

In support of his claim, Claimant submitted documentation in the form of a bank statement from February 2011 and a letter he received from the Social Security Administration. The letter from the Social Security Administration, dated February 2, 2011, is informing Claimant that the State of Michigan will no longer pay his Medical insurance premiums (QMB) after February 2011, which means after February 2011, the \$115.40 (QMB) premium will be deducted from his social security leaving him \$763.00 a month. The bank statement shows he received the full \$878.00 in his bank account in February 2011.

This Administrative Law Judge finds that based on the competent, material, and substantial evidence received, the department properly closed Claimant's FAP, MA and QMB case when he failed to timely turn in his redetermination forms. It is also noted, based on Claimant

returning the redetermination forms on December 27, 2010, that the department has continued to pay his QMB and his FAP and MA were reinstated. If Claimant should stop receiving his QMB, then at that time he would be able to submit a new hearing request on that issue, but at the time he filed his request on December 27, 2010, Claimant was still receiving his QMB and has failed to show otherwise.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's MA, QMB and FAP benefits for failure to return the necessary redeterminations.

Accordingly, the department's actions are UPHeld.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 24, 2011

Date Mailed: March 24, 2011

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 receipt 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.

VLA 

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