

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-9267
Issue No.: 2017
Case No.: [REDACTED]
Hearing Date: February 16, 2012
County: Macomb (50-12)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 16, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] Claimant's father and Authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

1. Did the Department properly close Claimant's case under the Medicare Savings Program, Qualified Medicare Beneficiaries (QMB) benefit type, effective October 1, 2011?
2. Did the Department fail to process Claimant's QMB benefits from March 1, 2011, to September 30, 2011?

FINDINGS OF FACT

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

1. On February 15, 2011, the Department sent Claimant a Notice of Case Action informing her that she was approved for Medicare Savings Program benefits under the QMB benefit type.

2. On August 22, 2011, the Department sent Claimant a Notice of Case Action informing her that, effective October 1, 2011, her Medicare Savings Program would close.
3. On September 13, 2011, Claimant filed a request for hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98

and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, Medicare Savings Programs are SSI-related MA categories, which are neither Group 1 nor Group 2. BEM 165. Individuals whose net income does not exceed 100% of the federal poverty level are eligible for QMB benefits under the Medicare Savings Program. BEM 165. QMB pays (i) Medicare premiums, both Medicare Part B premiums and, for those few people that have them, Part A premiums, (ii) Medicare coinsurances, and (iii) Medicare deductibles. BEM 165. One of the nonfinancial eligibility factors for coverage under the Medicare Savings Programs is that the person must be "entitled to Medicare Part A." BEM 165. For QMB, "entitled to Medicare Part A" means the person meets one of the following conditions: (i) the individual is receiving Medicare Part A with no premium being charged (however, a premium is being charged even when it is being paid by the Buy-In program); (ii) the individual refused premium-free Medicare Part A; or (iii) the individual is eligible for, or receiving, Premium HI (Hospital Insurance), which is what the Social Security Administration calls Medicare Part A when it is not free of charge. BEM 165. QMB coverage begins the calendar month after the processing month, which is the month during which the eligibility determination is made. BEM 165.

In this case, the Department sent Claimant a Notice of Case Action informing her that her Medicare Savings Program would close effective October 1, 2011, because she did not meet the basic criteria for the Medicare Savings Program and she was not enrolled in Medicare Part A. At the hearing, the Department did not present any evidence supporting its reasons for closing Claimant's case. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's Medicare Savings Program effective October 1, 2011.

At the hearing, Claimant's AHR also testified that the Department had failed to pay Claimant's Part A premiums for the period from March 1, 2011, the month after Claimant's application was processed, and September 30, 2011, the month before Claimant's case was closed. Although the Department contended that Claimant did not have Part A Medicare coverage, it did not present any evidence to support this conclusion. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to pay Claimant's Medicare Part A premiums from March 1, 2011, to September 30, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department


did act properly when .

did not act properly when it closed Claimant's Medicare Savings Program effective October 1, 2011, and failed to properly process Claimant's Medicare Savings Program QMB benefits from March 1, 2011, to September 30, 2011 .

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's Medicare Savings Program with QMB benefit type, effective October 1, 2011;
2. Reprocess Claimant's eligibility for payment of Medicare Part A premiums for March 1, 2011, to September 30, 2011, in accordance with Department policy;
3. Issue supplements for any QMB benefits, for both Part A and Part B Medicare premiums, Claimant was eligible to receive but did not from March 1, 2011, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 22, 2012

Date Mailed: February 22, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

