

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013 16447
Issue No.: 2017
Case No.: ██████████
Hearing Date: May 2, 2013
County: Wayne County DHS (19)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and the Claimant's Authorized Hearing Representative, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, FIM.

ISSUE

Did the Department properly process the Claimant's application for QMB (Medicare Savings Program) for reimbursement of the Medicare premium in accordance with Department policy?

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? (QMB) | |

FINDINGS OF FACT

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

1. Claimant applied for was receiving: FIP FAP MA (QMB) SDA CDC.
2. The Department found the Claimant eligible for QMB and approved the Claimant for QMB effective October 1, 2011 on March 19, 2012 Exhibit 1 and Claimant Exhibit A.

3. As of the date of the hearing, the Claimant has not received reimbursement of the Medicare Premium from Social Security for the period October 1, 2011 through March 2011.
4. On November 28, 2012, Claimant filed a hearing request, protesting the The Department's failure to process its approval of QMB to the Social Security Administration.

CONCLUSIONS OF LAW

Department policies are found 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 1997 AACS R 400.3101-3131. 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 1997 AACS R 400.3001-3015

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 1998-2000 AACS R 400.3151-400.3180.

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 1997 AACS R 400.5001-5015.

Additionally, in this case the Claimant applied for QMB in October 2011. The Department did not process the QMB application until March 19, 2012. The Eligibility summary presented by the Department indicates that eligibility was approved by notice of case action dated 3/19/12 effective 10/1/11. Claimant Exhibit A.

It was not clear from the record presented by the Department why the Claimant's QMB had not been reimbursed for any months prior to April, 2012. At the hearing it was established that no QMB benefits had been paid to the Claimant for the months of October 2011 through March 2012 even though the Department Notice of Case Action approved the Claimant's eligibility effective October 1, 2011. A review of Department policy indicates that QMB coverage begins the month after the processing month. The applicable policy is found in BEM 165:

Begin QMB coverage the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is **not** available for past months or the processing month. BEM 165 (1/10/10)

It also appears that this medical application was not processed within the standard of promptness. BAM115 requires that a medical application be processed within 45 days of receipt of the asset assessment:

The SOP for an **initial asset assessment** begins the date the local office receives a signed DHS-4574-B, Assets Declaration. Complete the assessment and mail the client and spouse a notice within 45 days;

In this case the Department took at least 5 months to process the application in this case, well beyond the standard of promptness set forth above. No reasons for the delay in processing were presented by the Department. The Department's delay caused the Claimant's application processing to occur well after it should have.

When BEM 165 is considered, and applied to the facts in this case, it must be concluded that the Department's delay in processing the application caused the Claimant not to be deemed eligible for QMB until the month after the processing month which was April 2012, notwithstanding the effective date of 10/1/11 set forth in the Notice of Case Action. Claimants should not be penalized and suffer loss of benefits they are otherwise entitled to receive because the Department did not follow policy in meeting the standard of promptness for processing medical assistance applications.

Based upon these facts and circumstance it is determined that the Department must review the application processing in this case to determine when the initial asset assessment began and add 45 days to that date to determine the end of the standard of promptness period and determine the month that the application should have been processed. This determination will establish the correct processing month. The date the Claimant's QMB should have begun will be the month after the new processing month. The Department must reimburse the Claimant QMB benefits for the period

beginning one month after the new processing month (the date the eligibility determination and notice should have been completed).

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly improperly processed the Claimant's QMB benefit application for the reason the standard of promptness was not met, improperly delaying the Claimant's QMB eligibility .

DECISION AND ORDER

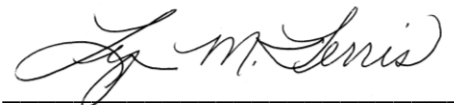
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly did not act properly.

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. The Department shall reprocess the Claimant's QMB application filed in October 2011 and redetermine the eligibility begin date in accordance with the standard of promptness set forth in BAM 115 and shall determine a new and correct processing month.
2. The Department shall issue the Claimant QMB benefit supplements for all months not previously paid or reimbursed for each month after the redetermined processing month ordered to be determined in paragraph 1, of this Decision and Order for the period prior to April 1, 2012.



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

Date Signed: May 21, 2013

Date Mailed: May 21, 2013

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 affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

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

LMF/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
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