

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201314062
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: April 18, 2013
County: Jackson

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 April 18, 2013, from, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES) [REDACTED] and Assistance Payments Supervisor (APS) [REDACTED].

ISSUE

Did the Department properly act in accordance with Departmental policy when it required the Claimant to file a new DHS-1171, Assistance Application for MA-QMB benefits, when the Claimant already had an active SSI-MA case?

FINDINGS OF FACT

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

1. The Claimant is an ongoing recipient of SSI related MA.
2. As of September of 2012, the Claimant began to incur the Medicare Part B expense.
3. On November 13, 2012, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that he is approved for MA-QMB effective November 1, 2012.

4. On November 19, 2012, the Department received the Claimant's written hearing request protesting the denial of his Part B expense for the months of September and October of 2012.

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 ACS, 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, Bridges Eligibility Manual (BEM) 165 (2010) p. 3 provides that departmental workers Begin QMB coverage 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. During the hearing, the department testified that the Claimant did not apply for this benefit until October of 2012 and therefore November was the earliest that he could be approved for and receive the benefit. The Department maintained that the Claimant was required to actually apply for the benefit even though BEM 165, p. 1, indicates that Medicare Savings Programs are SSI-related MA categories. The Administrative Law Judge was perplexed as to why the Claimant would be required to apply for a program for which he had already been approved. Therefore, the Administrative Law Judge questioned the ES and APW at the hearing as to which policy they were relying on that would require a new application. The ES and APW could not answer that question.

The Claimant testified that he had asked the ES, several times, what he needed to do to be reimbursed for the part B expense. The Claimant further testified that he provided the ES worker, in late July or the beginning of August of 2012, with a copy of the letter from the Social Security Administration informing him that he would be required to pay Part B expenses beginning in September. The Claimant testified that he was never informed that he would have to actually apply again until October. Had he known an application was required, he would have completed one much sooner.

Bridges Administrative Manual (BAM) 105 (2012) p. 7, provides that Claimant's have a responsibility to report changes affecting eligibility. Health or hospital coverage and premiums is a change that the Claimant is required to report within 10 days to his worker. In this case, the Claimant's testimony that he verbally reported this change and showed his worker the SSA letter documenting that the Claimant would be responsible for Part B premiums beginning in September is found to be credible, as it is logical and consistent with other evidence in the record. BAM 105 p. 8 provides that changes may be reported in person, by mail or telephone and that a DHS-2240 Change Report form could be used. It further provides that Claimant's must take actions within their ability to obtain verifications and that DHS staff must assist when necessary. The policy references BAM 130. BAM 130 pp. 2, 3 provides that a worker must tell the Claimant what verification is required, how to obtain it, and the due date using the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

As the Claimant is active for SSI-related MA and as QMB is an SSI-related MA program, when the Claimant informed his worker that he would have a Part B premium expense, the Claimant's worker should have issued the Claimant a DHS-1175, MA Determination Notice to request verification and then processed the Claimant's application from receipt of such verification. As the Claimant credibly testified that he informed his worker at the end of July or beginning of August of such expense, the Administrative Law Judge concludes that requiring the Claimant to file an application in September and delaying the processing of such a change is not in accordance with the departmental policy.

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 when it delayed the processing of a reported change and required the Claimant to complete a DHS-1171, Assistance Application to obtain MA-AMB benefits.

Accordingly, the Department's AMP FIP FAP MA SDA CDC 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. Initiate action to redetermine the Claimant's eligibility for MA-QMB back to September 1, 2012, and
2. Initiate action to issue the Claimant any supplement he may thereafter be due.

/s/
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/23/13

Date Mailed: 4/29/13

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.

201314062/SEH

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

SEH/tb

cc:

