

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201331650
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: August 21, 2013
County: Ingham

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 August 21, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly close Claimant's Medicare Savings Progra-Specified Low-Income Medicare Beneficiaries (SLMB) case due to a failure to comply with the verification requirements?

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 was receiving Medicare Savings Program (SLMB) benefits at all relevant times.
2. On January 15, 2013, the Department mailed Claimant a Redetermination (DHS-1010) which requested Claimant complete and return the form by February 1, 2013.
3. On February 16, 2013, the Department sent Claimant a Notice of Case Action (DHS-1605) which closed Claimant's Medicare Savings Program (SLMB) case effective March 1, 2013 due to failure to return the redetermination form.

4. On February 28, 2013, Claimant filed a hearing request, protesting the closure of her SLMB case.

CONCLUSIONS OF LAW

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

Medicare Savings Programs are SSI-related MA categories and are neither Group 1 nor Group 2 categories. BEM 165. There are three categories that make up the Medicare Savings Programs. BEM 165. The three categories are: (1) Qualified Medicare Beneficiaries. This is also called full-coverage QMB and just QMB. Program group type is QMB. BEM 165. (2) Specified Low-Income Medicare Beneficiaries. BEM 165. This is also called limited-coverage QMB and SLMB. BEM 165. Program group type is SLMB. BEM 165. (3) Q1 Additional Low-Income Medicare Beneficiaries. This is also referred to as ALMB and as just Q1. BEM 165. Program group type is ALMB. BEM 165.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210. If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210.

Here, the Department contends that Claimant failed to return a redetermination form before the February 1, 2013 due date which caused her SLMB case to close. The Department, according to the representative, would have been able to keep Claimant's SLMB case open if she had turned in the redetermination form by February 28, 2013. Claimant, on the other hand, contends that she hand-delivered the redetermination form on either February 27 or February 28. Claimant testified that she called her Department caseworker several times requesting help after the February 1, 2013 due date, but that her calls were not returned.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. There is no dispute that Claimant failed to turn in the redetermination before the February 1, 2013 due date. Claimant's telephone calls requesting assistance to the Department were after the February 1, 2013 due date. The record shows that the Department's log book from February 27 and February 28 indicated that Claimant did not turn in the redetermination form on those dates.

This Administrative Law Judge finds the Department's evidence to be persuasive and the Department representative's testimony to be more credible. Claimant has failed to make a reasonable effort to provide the redetermination within the required time period. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly closed Claimant's SLMB case for failure to return the redetermination form.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 26, 2013

Date Mailed: August 28, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

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- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

