

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317316
Issue No.: 2017
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne County (#49)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Thursday May 2, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Eligibility Specialist).

ISSUE

Whether the Department properly terminated the Claimant's Medicare Savings Program (QMB) benefit?

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 Medicaid recipient who received the Medicare Savings Program benefits under the Qualified Medicare Beneficiaries (QMB) program.
2. The Claimant receives \$724.00/monthly RSDI income. (Exhibit 2)
3. On September 12, 2012, the Department sent Claimant Notice of Case Action that her QMB benefit would close effective October 1, 2012, due to not meeting the basic criteria for the Medicare Savings Program. (Exhibit 1)
4. On December 3, 2012, the Department received the Claimant's written hearing request concerning the action.

CONCLUSIONS OF LAW

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

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.

Medicaid coverage includes Medicare cost-sharing benefits. This means Medicaid pays Medicare Part B premiums or Part A and B premiums, coinsurances and deductibles for certain Medicaid recipients. A person who can receive Medicare Part A free of charge is encouraged to apply for it. The Department of Community Health (DCH) administers the Buy-In programs. BAM 810 (October 2012), p. 1. The Part B Buy-In program is used to pay Part B premiums. The program is an agreement between DCH and SSA. The program covers persons who are eligible for both Medicare Part B and meet some other Department program criteria. BAM 810, p. 6. Generally, the Buy-In program operates automatically. The Part B buy-in effective date is the month QMB or SLMB coverage begins if the only basis for buy-in is Medicare Savings Program eligibility. BAM 810, p. 7.

In this case, the Department determined the Claimant eligible for payment of her Part B Medicare premium under the QMB program as of March 1, 2012. (See Exhibit 2). It provided no evidence to show the basis for why she no longer met the eligibility criteria when the case closed. The Department representative testified that the SOLQ system reflected a Part B Buy-In stop date of November 1, 2012, but did not know the reason for the stop date. In this type of matter, the Department has the burden of establishing by a preponderance of the evidence that the action taken was in accordance with policy. The Department presented insufficient testimony and/or documentary evidence to support the action. Therefore, the Department did not establish that it acted in accordance with policy when closed the Claimant's Medicare Savings Program benefits.

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 not establish it acted properly when it closed the Claimant's Medicare Savings Program Benefit effective October 1, 2012.

Accordingly, the Department's MA determination, is hereby **REVERSED**.

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 reinstate the Claimant's Medicare Savings Program benefits to the effective date of closure October 1, 2012.
2. The Department shall properly notify the Claimant of any further determinations regarding her eligibility for the Medicare Savings Program.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/9/2013

Date Mailed: 5/9/2013

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 effect the substantial rights of the claimant:
 - the 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

MH/hw

cc:

