

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

IN THE MATTER OF:



Reg. No.: 2014-33504
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: April 29, 2014
County: Genesee-06

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 29, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Hearing Facilitator).

ISSUE

Did the Department properly determine Claimant's eligibility for Medicare Savings Program category known as Specified Low-Income Medicare Beneficiaries (SLMB)?

FINDINGS OF FACT

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

1. Claimant was active for SLMB.
2. On or about January 20, 2013, Claimant moved to Ohio and applied for Medicare Savings Program benefits through the state of Ohio.
3. Claimant did not receive Medicare Savings Program benefits through the state of Ohio.
4. Claimant returned to Michigan on December 23, 2013.
5. On February 4, 2014, Claimant submitted an online application for Food Assistance Program (FAP) and "Health Care Coverage" in Michigan.
6. On February 20, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant for Medicare Savings Program SLMB

effective March 1, 2014. The notice indicated, "The Medicare Savings Program will pay your monthly Medicare Part B premium."

7. The Department denied Claimant's request for retroactive Medicare cost share benefits to December, 2013 based on a telephone call with the state employee from Ohio who reportedly indicated that Claimant received Medicare cost share benefits (Medicare Part B) through February 28, 2014.
8. Claimant requested a hearing for retroactive SLMB benefits because the state of Ohio did not pay her Medicare Part B premiums.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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, p 1 (10-1-2013). SLMB pays Medicare Part B premiums. BEM 165, p 2. SLMB coverage is available for retro MA months and later months. BEM 165, p 3.

Here, the issue is whether the Department must provide Claimant with retroactive Medicare Part B premiums for purposes of SLMB. The Department asserts that a "collateral contact" (telephone call) with Ohio confirmed that Claimant received SLMB and that her Medicare Part B premiums were paid through February 28, 2014. Claimant contends that she did not receive Medicare Part B premiums from the state of Ohio at any time. The Department takes the position that Claimant is not entitled to retroactive SLMB because she allegedly received these premiums through Ohio.

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. The Administrative Law Judge was not persuaded that the information from Ohio was reliable and asked the Department for additional evidence. During the hearing, the Department worker agreed to confirm whether Claimant's Medicare Part B premiums were, in fact, paid through the state of Ohio. Accordingly, the Administrative Law Judge extended the record for receipt of this evidence. The Department representative later provided an email from a state employee from Ohio which indicated that Claimant's Part B premiums were not paid and that she should be reimbursed.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined that Claimant was not entitled to retroactive Medicare cost sharing benefits (SLMB) because she was active for these benefits in Ohio through February 28, 2014.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall redetermine Claimant's eligibility for SLMB benefits; including eligibility for retroactive SLMB.
2. To the extent required by policy, the Department shall provide Claimant with benefit reimbursement or retroactive and/or supplemental SLMB benefits.
3. If necessary, the Department shall request a help desk remedy ticket to implement this Decision and Order.

IT IS SO ORDERED.



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

Date Signed: May 5, 2014

Date Mailed: May 5, 2014

NOTICE OF APPEAL: 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.

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).

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;
- 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.

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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/las

cc:

