

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-011556
Issue No.: 2000; 2004
Case No.: ██████████
Hearing Date: November 24, 2014
County: WAYNE-DISTRICT 35
(REDFORD)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 November 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's Authorized Hearing Representative (AHR)/sister, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's Medicare Savings Program (MSP) application(s)?

FINDINGS OF FACT

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

1. On August 8, 2014, Claimant applied for MSP benefits. See Exhibit 2, p. 5.
2. On August 11, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that he was approved for MSP benefits effective September 1, 2014. See Exhibit 1, p. 9. The determination notice also notified Claimant that he was not eligible for MSP benefits for August 2014 because he has full Medicaid coverage. See Exhibit 1, p. 9.

3. On September 3, 2014, Claimant and the AHR filed a hearing request, protesting the MSP determination notice dated August 11, 2014 and the Department's failure to process an alleged MSP application dating back to 2006. See Exhibit 1, pp. 6-8.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

Claimant and the AHR argued that the Department failed to process his MSP application(s) dating back to 2006. In fact, the AHR testified that she requested from the Department the applications. Claimant's AHR testified that the Social Security Administration (SSA) has taken over \$100 from his checks since it got changed in 2006. See Exhibit 1, p. 7. Claimant/AHR argued that he has been to the DHS office many times since 2006 and the Department has failed to process his MSP applications. Claimant seeks MSP supplements dating back to 2006 because of the Department's failure to process his applications.

At the hearing, Claimant did present an SSA letter dated October 20, 2006, which indicated the State of Michigan will no longer pay his Medicare medical insurance premiums after October 2006 and that he must pay the premiums beginning November 2006. See Exhibit A, p. 1. Furthermore, Claimant testified that he brought SSA letters to the Department every year showing that he needed assistance to pay his premium. However, Claimant and his AHR failed to produce any evidence of his alleged MSP applications dating back to 2006. In response to Claimant's allegations, the Department presented a program request – summary document, which did not indicate any MSP application(s) dating back to 2006. See Exhibit 2, p. 5.

Furthermore, the Department did retrieve Claimant's case file and discovered two MA applications dated May 13, 2011 and May 24, 2011. See Exhibit 2, pp. 1-4. On May 24, 2011, the Department sent Claimant a Notice of Case Action notifying him that his MSP application was denied effective May 1, 2011, ongoing. See Exhibit 2, pp. 7-14. It appears that the Notice of Case Action addressed both applications because they

occurred in same benefit month (May 2011). Nevertheless, Claimant testified that he never requested a hearing to dispute the Notice of Case Action dated May 24, 2011. In fact, Claimant did not request a hearing to dispute his prior alleged MSP applications.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Based on the foregoing information and evidence, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's dispute that the Department failed to process his alleged MSP applications dating back to 2006. First, Claimant and his AHR failed to produce any evidence of MSP applications dating back to 2006, other than the May 2011 applications produced by the Department. Second, in regards to Claimant's two MSP applications submitted in May 2011, Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, dismissed for lack of jurisdiction. BAM 600, pp. 4-6. In summary, there is no evidence presented by the Claimant to show that the Department failed to process any MSP applications dating back to 2006.

MSP application(s)

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (January 2014), p. 1. Medicaid is also known as Medical Assistance ("MA"). BEM 105, p. 1.

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (April 2014), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare

Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

During a telephone interview on May 5, 2014, the Department testified that Claimant stated he paid his Medicare premium of \$104.90, but that he did not mention that he wanted to apply for MSP benefits. See Exhibit 1, p. 2.

On July 7, 2014, the Department testified that Claimant requested the Department to pay his Medicare Part B premium back to 2006. See Exhibit 1, p. 2. The Department testified that it would not retro his MSP benefits and that he could apply for such benefits. See Exhibit 1, p. 2. On July 7, 2014, the Department testified that it mailed Claimant an application. See Exhibit 1, p. 2. On July 16, 2014, the Department sent Claimant a Quick Notice notifying him that he was mailed an application for his Medicare Premium. See Exhibit 1, p. 22. On July 21, 2014, the Department testified it received an unopened application with postage stamped “return to sender” and the case was put in closure for unable to locate household. See Exhibit 1, p. 2.

On July 22, 2014, the Department testified it spoke with Claimant, who confirmed that the address was correct and an application was re-mailed to him. See Exhibit 1, p. 2. On August 8, 2014, the Department received a completed application. See Exhibit 1, p. 2. On August 11, 2014, the Department sent Claimant a determination notice notifying Claimant that he was approved for MSP benefits effective September 1, 2014. See Exhibit 1, p. 9. The determination notice also notified Claimant that he was not eligible for MSP benefits for August 2014 because he has full Medicaid coverage. See Exhibit 1, p. 9. Claimant was approved for MSP – QMB coverage effective September 1, 2014. See Exhibit 1, p. 12.

Based on the foregoing information and evidence, the Department properly processed Claimant’s MSP application dated August 8, 2014.

First, the Department was unable to register Claimant’s application for the month of July 2014 because it did not contain the necessary minimum information. An application/filing form with the minimum information listed in BAM 105 must be registered by the Department using the receipt date as the application date even if it does not contain enough information needed to determine eligibility. BAM 105 (April 2014), p. 1 and BAM 110 (July 2014), pp. 10-11. Policy further states that if an application/filing form does not contain the minimum information listed in BAM 105, the Department sends it back to the client along with a DHS-330, Notice of Missing Information, informing the client of the missing information. BAM 105, p. 1. The Department was unable register or send a Notice of Missing Information because Claimant’s application was returned by the United States Postal Service (USPS) as “return to sender.” In fact, the evidence indicated that the Department mailed the application to the proper address. Because Claimant’s application was addressed to the proper residence and it was returned by USPS without the minimum information


necessary, the Department was unable to register the application for July 2014. BAM 105, p. 1 and BAM 110, pp. 10-11.

Second, the evidence established that the Department received the application in August 2014. See Exhibit 2, p. 5. The Department begins QMB coverage the calendar month after the processing month. BEM 165, p. 3. The processing month is the month during which an eligibility determination is made. BEM 165, p. 3. QMB is not available for past months or the processing month. BEM 165, p. 3. As such, August 2014 was the processing month for Claimant's QMB eligibility and therefore, he was not eligible for benefits in the month of August 2014. See BEM 165, p. 3. However, the Department properly approved Claimant for MSP – QMB coverage effective September 1, 2014 (the month after the processing month) in accordance with Department policy. BEM 165, p. 3.

DECISION AND ORDER

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 acted in accordance with Department policy when it (i) properly approved Claimant for MSP – QMB coverage effective September 1, 2014; (ii) properly denied Claimant MSP – QMB eligibility for August 2014; and (iii) this ALJ lacks the jurisdiction to address Claimant's dispute that the Department failed to process his alleged MSP application(s) dating back to 2006.

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


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/2/2014**

Date Mailed: **12/2/2014**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC:

[REDACTED]