

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001129
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: May 15, 2014
County: Oakland- 2

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 three-way telephone hearing was held on May 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included attorney [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED]. Assistant Attorney General [REDACTED] appeared on behalf of the Attorney General and represented the Department.

ISSUE

Did the Department properly deny Claimant's application Medical Assistance (MA)?

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 applied for retroactive MA on March 13, 2014, seeking benefits back to December 1, 2013.
2. On April 4, 2014, the Department denied Claimant's application due to failure to return a supplemental questionnaire (Exhibit 1 Page 1), despite the fact that Claimant's questionnaire had been received by the Department on March 21, 2014.
3. On April 1, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision. (Exhibit 1 Page 4.)
4. On April 9, 2014, the Department received Claimant's hearing request.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

BAM 130 instructs, with respect to the FIP, SDA, MA and AMP programs, “A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

“The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification.”

BAM 130 does NOT place responsibility on the Department to make collateral contact for FAP applicants or recipients. For all programs, when it comes to verification, BAM 130,

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The issue is whether the Claimant/Claimant's AR provided timely verification in response to the request. The Department acknowledged that the response to the questionnaire was received timely and benefits were denied in error. The issue then centers on the type of benefits Claimant is eligible for, and when.

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. Qualified Medicare Beneficiaries, also called full-coverage QMB and just QMB. Program group type is QMB.
2. Specified Low-Income Medicare Beneficiaries, also called limited coverage QMB and SLMB. Program group type is SLMB.
3. Q1 Additional Low-Income Medicare Beneficiaries, also referred to as ALMB and as just Q1. Program group type is ALMB. BEM 165.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ. Income is the major determiner of category. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. All eligibility factors must be met in the calendar month being tested. BEM 165.

Benefits of Medicare Savings Programs differ depending on the program. QMB Benefits pay Medicare premiums and Medicare coinsurances and Medicare deductibles. SLMB Benefits pay Medicare Part B premiums, while ALMB Benefits pay Medicare Part B premiums provided funding is available. The Department of Community Health decides whether funding is available. BEM 165. General information about Medicare and information about the Buy-In program is available in BAM 180.

The department makes separate Medicare Savings Programs determination for the following clients if they are entitled to Medicare Part A:

- Medicare Savings Programs-only.
- Group 2 MA (FIP-related and SSI-related).
- Extended Care (BEM 164).
- Healthy Kids.
- TMA-Plus.

Automatic QMB Person's receiving MA under the following categories and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination. The QMB coverage date begins 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.

SLMB coverage is available for retro MA months and later months. Note: SLMB is only available for months when income exceeds the QMB limit. A person cannot choose SLMB in place of QMB in order for coverage to start sooner (example, to get retro MA). ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. ALMB is not approved for any month that is in a previous calendar year, even if application was made in the previous calendar year.

Claimant was approved for MA-AD Care on April 11, 2014, and for QMB on April 15, 2014, for the month of April 2014 onward. The Department testified that he now has SLMB with a deductible, effective June 1, 2014. The Department testified that, had his application been processed correctly, he would have been approved for SLMB coverage back to December 1, 2013. A help ticket (# [REDACTED]) was submitted for the Department to correct a programming error. That ticket has not been processed.

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 denied Claimant retroactive MA benefits, and further finds that the error will be fixed with the processing of the Help Desk ticket.

DECISION AND ORDER

The Administrative Law Judge **ORDERS** that the Department shall immediately submit and process an expedited remedy ticket to provide Claimant with Medicaid coverage with the correct deductible beginning December 1, 2013.

The Administrative Law Judge also **ORDERS** that the Department shall Issue a supplement to Claimant for any benefits improperly not issued.

IT IS SO ORDERED.

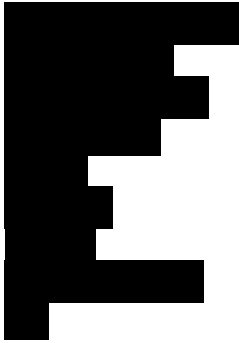


Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 20, 2014

Date Mailed: May 20, 2014

cc:



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.

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