

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

IN THE MATTER OF:

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Reg. No.: 15-000328
Issue No.: 2004
Case No.: ██████████
Hearing Date: March 16, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payments Worker.

ISSUE

Did the Department properly process the Claimant's application for Medicaid cost sharing?

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 and his wife applied for Medicaid on January 10, 2014 and requested QMB Medicare Savings Program benefits. The application that was filed requested Medicaid and the Claimant's spouse was receiving RSDI. The Claimant requested QMB on behalf of his wife when meeting with the caseworker for the period for January 2014 through March 31, 2014.
2. The Department processed the January 10, 2014 application and found Claimant's wife eligible for Full Medical Coverage and eligible for Group 1 service. Exhibit 1 p. 18.
3. The Department never processed the Claimant's request for QMB. The Department reviewed the application in the case file which was reviewed during the hearing and noted that a handwritten note indicated that the Claimant's wife paid Medicare Part B premiums. The application did not contain a specific area to

request for QMB or any other for which needed to be completed. The Claimant's spouse never received a denial of QMB when the January 10, 2014 application was approved.

4. The Claimant requested a timely hearing on January 7, 2015 requesting that QMB eligibility be determined as the Department never advised the Claimant regarding the QMB 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), 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.

Additionally, the first issue in this case is whether the Claimant's hearing request dated January 7, 2015 was timely. It is determined that the request was timely as the Department never processed the Claimant's request for QMB as part of the application for Medicaid filed on January 10, 2014. Because the request was never processed there was no action upon which the Claimant could request a hearing.

The evidence presented indicated that an Application for Medical Assistance dated January 10, 2014 was completed and processed by the Department. At the time of the application the Claimant's wife was receiving RSDI. The Claimant credibly testified that at the time of the application he told the case worker that his wife wanted to receive reimbursement for the Medicare Part B premium. The application in the file had a note on the front that the Claimant's spouse paid the Part B premium and noted the correct amount \$104.90. The Department at the hearing reviewed the January 2014 application and found no area on the application to request QMB, the program in question. If the Claimant was entitled to Medicare Part A she would be automatically eligible. No evidence was presented as regards whether the Claimant's wife paid a Medicare Part A premium. Department policy found in BEM 165 (January 1, 2015), p. 2. provides:

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

- BEM 110, Low-Income Families and FIP recipients.
- BEM 111, Transitional MA.

- BEM 113, Special N/Support.
- BEM 150, SSI Recipients.
- BEM 154, Special Disabled Children.
- BEM 155, 503 Individuals.
- BEM 156, COBRA Widow(er)s.
- BEM 158, DAC.
- BEM 163, AD-Care.

Begin QMB coverage the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is **not** available for past months or the processing month. BEM 165, p. 3.

Advise persons listed under Automatic QMB above that MA will pay their Medicare premium.

Do a determination of eligibility for all other persons. In doing this determination:

- Explain the nonfinancial eligibility factors. Assume they will be met.
- Use current information to determine financial eligibility. Do **not** ask for verification.
- Explain that changes may affect the actual determination of eligibility. Be sure to discuss asset policy thoroughly if the person's assets exceed the limit. BEM 165 p. 4

As regards application, Department policy requires a request for assistance may be in person, by mail, telephone, email or online. The requester has the right to receive the appropriate application form. BAM 110 (July 10, 2014), p. 1. In this case, as this was an MA application, the Claimant should have completed a DCH 1426. There was no evidence that this was done. The Department also did not demonstrate that at the time of the January 10, 2014 application a determination was made by the Department of eligibility for all other persons not receiving automatic QMB to consider financial eligibility and to use current information.

Policy specifically provides for Medicaid Applications only the Department is required to provide:

DCH-1426, Application for Health Coverage & Help Paying Costs (all Medicaid categories). Brochures are available on the DCH website at www.michigan.gov/mdch. Select MDCH Brochures Available for Download from the Quick Links in the right navigation. BAM 110 (July 1, 2014) p. 3.

In this case the evidence presented was that the Department never processed an application for QMB as part of the January 10, 2014 application for Medicaid. The Claimant credibly testified that at the time of the application the Claimant's wife sought QMB and so advised the caseworker. The MA application itself bore a notation that the Claimant's spouse was paying Medicare Part B premiums and noted the correct amount for such premiums (\$104.90). The Department also examined the application and did not find a specific area in the application that required the Claimant to complete for QMB. Based upon the evidence provided the application dated January 10, 2014 must be reprocessed to determine if the Claimant's wife is otherwise eligible for QMB. It is noted that the QMB is not available in the processing month.

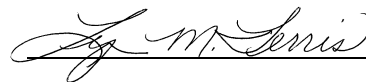
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to process the Claimant's spouse request for QMB with the January 10, 2014 application.

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 reprocess the Claimant's January 10, 2014 application for Medicaid for QMB and shall determine Claimant's wife's eligibility for the QMB program in accordance with Department policy.
2. If the Department determines that the Claimant's wife is eligible for QMB the Department shall issue a supplement or reimbursement to the Claimant for QMB benefits, if any, she is otherwise eligible to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/13/2015**
Date Mailed: **4/14/2015**
LMF / 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]