

[REDACTED]

APPELLANT

v.

[REDACTED]

[REDACTED]

[REDACTED]

* BEFORE TRACEY JOHNS DELP,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
*
* OAH No.: MDH-[REDACTED]-10-18-35558

* * * * *

DECISION

STATEMENT OF THE CASE
ISSUE
SUMMARY OF THE EVIDENCE
FINDINGS OF FACT
DISCUSSION
CONCLUSION OF LAW
ORDER

STATEMENT OF THE CASE

On [REDACTED] 2018, the Appellant completed a Medical Assistance (MA) Form DHR/FIA 9705 Application for Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) Programs. The [REDACTED] (local department), on behalf of the Maryland Department of Health (Department), processed and approved the application. On October 22, 2018, the local department issued a notice, advising the Appellant that she had not met the spend-down requirements for MA eligibility. The notice instructed the Appellant to bring medical bills to her case manager for processing. On November 14, 2018, the Appellant filed an appeal to challenge the handling of her case.

I held a hearing on January 17, 2019, at the local department, [REDACTED] Road, [REDACTED] Maryland [REDACTED]¹ Code of Maryland Regulations (COMAR) 10.01.04.02. The Appellant represented herself. [REDACTED] Appeals Representative, represented the local department.

The Administrative Procedure Act, the procedures for Fair Hearing Appeals under the Maryland State MA Program, and the Rules of Procedure of the Office of Administrative Hearings (OAH) govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2018); COMAR 10.01.04; COMAR 28.02.01.

ISSUE

Did the local department properly determine that the Appellant has not met spend-down requirements for MA eligibility for the period of October 2018 through March 2019?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on the local department's behalf:

- LD Ex. 1 - Summary for Appeal Hearing with the following attachments:
- Narrative notes, pp. 3 – 16
 - Denial Notices, dated March 9, 2018 and April 5, 2018, pp. 17 – 28
 - COMAR 10.09.24.04-1 and 07.03.17.30, pp. 29 – 34
 - MA Guidelines; Office of Eligibility Services chart distinguishing among regular MA, QMB, and SLMB; 2018 Dual Eligibility Standards; Office of Eligibility Services slides; Guide to Maryland MA Coverage Groups, pp. 35 – 61
 - Spenddown Notice, dated October 22, 2018, pp. 62 – 67
 - MA Application and Change of Address, pp. 68 – 75
 - Request for Hearing, p. 76
 - Notice of Hearing, unnumbered
- LD Ex. 2 - Email thread regarding the local department Appeal Unit's evaluation and action in the Appellant's case, dated December 6, 2018; Narrative notes; Appeals Review Sheet; thirty-four pages of invoices

The Appellant did not offer any exhibits to admit into evidence.

¹ The hearing was originally scheduled for December 20, 2018, but it was postponed for issuance of the local department's Summary for Appeal Hearing. See Code of Maryland Regulations 10.01.04.05A.

Testimony

The local department's representative, [REDACTED] testified and read the Summary for Appeal Hearing.

The Appellant testified on her own behalf.

FINDINGS OF FACT

Having considered the evidence presented, I find the following facts by a preponderance of the evidence:

1. On [REDACTED] 2018, the Appellant completed an MA Application for QMB and SLMB Programs for herself, a household size of one.
2. The Appellant is aged, blind, or disabled and, therefore, is Modified Adjusted Gross Income exempt.
3. At the time of application, the Appellant was receiving monthly social security benefits in the amount of \$1,348.00, and \$134.00 was being deducted for Medicare Part B.
4. The Appellant was ineligible for regular MA due to her excess income and resources.
5. The household monthly income range for the Qualifying Individual (QI) Specified Low-Income Medicare Beneficiary II (SLMB II) S14 coverage group is \$1,234.00 - \$1,386.00.
6. The local department processed and approved the application, determining the Appellant was eligible for benefits in the QI SLMB II S14 coverage group, a limited-benefit program. Coverage is for payment of Medicare Part B premiums only.
7. As an SLMB recipient, the Appellant may still qualify for MA through spend-down eligibility. She may deduct medical expenses to fall within MA guidelines. To do so, the Appellant is required to submit documented medical expenses to the local department for processing in order to meet spend-down requirements.

8. The Appellant submitted documented medical expenses to the local department.

9. On October 22, 2018, the local department issued a notice advising the Appellant that she had not met MA spend-down requirements. The notice further advised that the Appellant had not submitted any eligible medical bills. The Appellant filed an appeal.

10. Upon receipt of the Appellant's hearing request, the Appeals Unit conducted a case review, noted that medical bills had been received, and directed that the Appellant's medical bills be processed and applied.

11. The local department processed the Appellant's medical expenses documentation and determined the Appellant submitted a total of \$1,646.32 in medical bills, leaving a remaining spend-down balance of \$4,362.98.² A December 6, 2018 Corrective Action noted these updated calculations in the Appellant's case.

DISCUSSION

When not otherwise provided by statute or regulation, the burden of proof in a hearing before the OAH is by a preponderance of the evidence, and rests with the party making an assertion or a claim. Md. Code Ann., State Gov't § 10-217 (2014); *Comm'r of Labor and Ind. v. Bethlehem Steel Corp.*, 344 Md. 17, 34 (1996) (“[T]he burden of proof is generally on the party asserting the affirmative of an issue before an administrative body.”) To prove an assertion or a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all of the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002); *see also Mathis v. Hargrove*, 166 Md. App. 286, 310 n.5 (2005).

In this case, the Appellant asserts that the local department did not properly process her submitted documentation when it concluded that she has not met spend-down requirements for MA eligibility. Therefore, the Appellant bears the burden of proof on that issue.

² The Appellant also submitted duplicate medical bills as well as bills for a vehicle inspection and an alarm system; these bills were excluded from the local department's calculations.

The MA program is administered by the Department. An applicant for MA is permitted to file an application with the Department or its designees, including the local department. COMAR 10.09.24.04F(1). SLMB benefits are in a category of Medicaid benefits entitled "Medicare savings program benefits." COMAR 10.09.24.03-3B. SLMB benefits provide assistance with the payment of Medicare Part B premiums. COMAR 10.09.24.03-3F(4). A card is not issued for SLMB recipients, since the benefit does not cover any medical services.

Although the Appellant did not qualify for full MA benefits due to excess income, if the Appellant can establish that she spent her excess income on medical bills, she can still qualify for MA. "'Spend-down' means a procedure by which an applicant who is ineligible for [MA] due to excess income becomes eligible by deducting incurred medical expenses from excess income." COMAR 10.09.24.02(57). The regulations explain further,

C. Date for Certification to Begin and End for Noninstitutionalized Persons.

...
(3) Persons Eligible for Current Coverage Under Spend-Down.

(a) Certification begins on the day in the period under consideration on which medical expenses for services already received equal or exceed the amount of excess income. The beginning date of the certification period shall be established to exclude from coverage any full day after the application date and before the certification date for which all expenses for medical services were used to establish spend-down eligibility.

(b) Certification ends on the last day of the period under consideration.

COMAR 10.09.24.11C(3). The local department calculated the Appellant's certification period as October 2018 through March 2019. (LD. Ex. 2.)

The local department's notice, dated October 22, 2018, stated that the Appellant had not submitted documentation of any medical expenses. (LD Ex. 1.) At the hearing, the local department's Appeals Representative conceded that in reviewing the Appellant's case, it appeared that the local department had not processed and applied the Appellant's submitted medical bills. For that reason, the Appeals Unit directed the local department to do so. The

Appellant's medical bills were applied and processed. The local department determined the Appellant submitted a total of \$1,646.32 in medical bills, leaving a remaining spend-down balance of \$4,362.98. Accordingly, the local department completed a Corrective Action on December 6, 2018, correcting its calculations in the Appellant's MA case. (LD Ex. 2.) The Hearing Representative encouraged the Appellant to continue to submit medical documentation, and offered to assist her in verifying the documentation is properly applied to her case.

The Appellant remains dissatisfied. She argued that the local department has not applied all of the medical bills she has already submitted. She reviewed the local department's Exhibit 2, which contains copies of her medical bills, and testified that she submitted more bills than are contained in the exhibit. However, she offered no evidence to refute the local department's calculations. The Appellant had a stack of original bills with her, but did not submit any medical bills into evidence in support of her position. I am sympathetic to the Appellant. She discussed at length her frustrations with the local department, including the need on multiple occasions to speak with supervisors to resolve problems. However, without evidence that there was an error in calculations or evidence that submitted bills were overlooked, I cannot conclude that the local department committed an error in its calculations.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the local department properly determined that as of its December 6, 2018 Corrective Action, the Appellant has not met spend-down requirements for MA eligibility for the period of October 2018 through March 2019. COMAR 10.09.24.02(57); 10.09.24.11C(3).

ORDER

I hereby **ORDER** that the decision of the [REDACTED]
is **AFFIRMED**.

January 23, 2019
Date Decision Issued

Signature Appears on Original
[REDACTED]

Tracey Johns Delp
Administrative Law Judge

TJD/dlm
#177827

REVIEW RIGHTS

This is the final decision of the Maryland Department of Health. A party aggrieved by this final decision may file a written petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county where any party resides or has a principal place of business. Md. Code Ann., State Gov't § 10-222(c) (Supp. 2018). The original petition must be filed in the circuit court within thirty (30) days of the date of this decision, with a copy to David Lapp, Office of the Attorney General, Suite 302, 300 W. Preston St., Baltimore, MD 21201. Md. Rules 7-201 through 7-210.

The petition for judicial review should identify the Maryland Department of Health, which administers the Medicaid program, as the agency that made the decision for which judicial review is sought. The address of the Maryland Department of Health should be included on the petition: 201 W. Preston St., Room 511C, Baltimore, MD 21201.

A separate petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325. No fees may be charged to Medical Assistance Program recipients, applicants, or authorized representatives for transcription costs or for preparation or delivery of the record to the circuit court. The Office of Administrative Hearings is not a party to the judicial review process.

Copies Mailed To:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]