

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

JUL 28 2009

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

PETITIONER,
Vs.
AGENCY FOR HEALTH CARE
ADMINISTRATION (AHCA)
CIRCUIT: 18 Seminole
RESPONDENT.

APPEAL NO. 09F-02672

CASE NO. 1019818786

FINAL ORDER

Pursuant to notice, an administrative hearing was convened before the undersigned at 2:35 p.m. on May 27, 2009 and at 10:54 a.m. on June 30, 2009. On each occasion, the petitioner appeared by telephone as did ACCESS senior specialist, Tracey Schoen Shaw. On the second date, Lisa Sanchez, senior human service program specialist of AHCA, represented the respondent.

ISSUE

At issue was whether AHCA can reimburse the petitioner directly for Medicare Part B monthly premiums. The petitioner had the burden of proof.

FINDINGS OF FACT

1. The petitioner receives federal Social Security Administration (SSA) disability benefits. He is also eligible for federal Medicare. Due to income level, he was eligible for the state's Qualified Medicare Beneficiary (QMB) buy-in program for each month between August 2007 and January 2008.

2. Under the QMB program, the state pays the federal government for an individual's Medicare Part B premiums. The function of the state agency in QMB is to pay the federal agency for the Medicare premium. The state paid the petitioner's Medicare premiums of \$96.40 for each month between August 2007 and January 2008. AHCA was the responsible agency and reliable AHCA business records confirmed those payments were made (Respondent's Exhibit 2). The total payment was \$563.90.

3. From March 20 through April 18, 2008, the petitioner's bank account did not get a \$563.90 deposit. On April 8, 2008, the account was closed. Petitioner's Exhibit 1 showed this information from the bank statement.

4. The petitioner believed banking problems were caused by government's failure to reimburse him \$563.90. He believed he had also paid the \$563.90 for the Medicare premiums and was entitled to a refund.

5. If both the state and the individual pay the federal government for Medicare premiums, then the federal government usually refunds the money to the individual.

6. Reimbursement to an individual (or his bank account) is not a function of AHCA. The state does not reimburse an individual when double Medicare premium payments are made.

7. The petitioner did not submit evidence that he had also paid the Medicare premiums in that period. The petitioner alleged he had tried many times to resolve the problem with SSA. He believed the state should help him resolve the problem.

CONCLUSIONS OF LAW

The petitioner argued that he had not created the problem and he should be reimbursed and the state should assist him in that. The respondent argued the matter is not within control of AHCA and that no unfavorable state action had occurred. The respondent argued that if double payments were made, then an individual's remedy is through SSA not AHCA.

Federal regulation 42 C.F.R. § 431.241 **Matters to be considered at the hearing** addresses state level administrative hearings and informs as follows:

The hearing must cover—

(a) Agency action or failure to act with reasonable promptness on a claim for services, including both initial and subsequent decisions regarding eligibility;

State rules appear at Florida Administrative Code 65-2.056 **Basis of Hearings** and deal with the hearing officer's ability to address Department actions as follows:

The Hearing shall include consideration of:

(1) Any Agency action, or failure to act with reasonable promptness, on a claim of Financial Assistance, Social Services, Medical Assistance, or Food Stamp Program Benefits, which includes delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and discontinuance, termination or reduction of such assistance.

The Office of Appeal Hearings of the Department of Children and Families affords state level hearings related to state programs and does not have jurisdiction over federal SSA matters. In the case at hand, no unfavorable action was taken by the state agency. While the petitioner's frustration is apparent,

neither AHCA nor the state's administrative hearing process can resolve the problem.

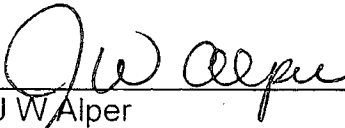
DECISION

The reimbursement issue is dismissed as nonjurisdictional.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the agency. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 20th day of July, 2009, in
Tallahassee, Florida.



J W Alper
Hearing Officer
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850-488-1429

Copies Furnished To: