

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]
Claimant

Reg. No: 2008-22180
Issue No: 2027
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 23, 2009
Bay County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held. Claimant was represented at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly propose to change claimant's DAC MA to an MA deductible?

FINDINGS OF FACT

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

(1) At all relevant times prior to the action herein, claimant was a beneficiary of the DAC MA program.

(2) In May, 2008, the department completed an annual redetermination. At that time, the local office noticed a 7/13/05 memorandum indicating that claimant was “not eligible for MA as a DAC because he never received SSI.”

(3) On 5/14/2008, the local office received an SSA 2458--Report of Confidential Social Security Benefits Information pursuant to an inquiry by the local office responding to the inquiry stating: “Your original disability claim was for DAC benefits. On this record, we show your date of onset as 4/30/1977. You received DAC benefits from your father’s record from May 1977 through August 1980.” Exhibit 8.

(4) A 6/2/08 memo indicates claimant not eligible for DAC because he never received SSI. Exhibit 9.

(5) The DHS ran an eligibility budget showing claimant eligible for an MA deductible.

(6) On May 14, 2008, the DHS issued a Notice of Case Action informing claimant that effective 5/28/08 his MA will switch to a deductible of \$480. The notice is supported by the budget on Exhibits 11 and 12.

(7) Claimant receives his own RSDI income.

(8) Claimant was married in 1980.

(9) On 5/20/08, claimant filed a timely hearing request. The department reinstated the action pending the outcome of the hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Applicable DAC policy and procedure is found in BEM Item 158. This Item lists the eligibility requirements pursuant to Social Security Act, Section 1634(c) and 202(d). This Item lists eligibility requirements in order to be eligible for DAC benefits. Among those is the requirement that an individual has received SSI.

In this case, credible and substantial evidence on the record indicates that claimant has not received SSI.

Another listed requirement claimant fails to meet is that in order to be eligible for DAC, an individual must have “ceased to be eligible for SSI on or after July 1, 1987...” As claimant never received SSI, he could not cease to be eligible for SSI on or after any date. See BEM Item 158, p. 1.

After careful review of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that claimant fails to meet the eligibility criteria for DAC MA. Thus, the department correctly proposes to close claimant’s DAC case and change it to an MA deductible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department’s proposed actions were correct.

Accordingly, the department’s proposed change of claimant’s active DAC case to an MA deductible was correct and is hereby UPHELD.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 3, 2009

Date Mailed: November 3, 2009

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

JS/cv

cc:

