

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg No. 200929568
Issue No. 2013
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: November 10, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 on November 10, 2009. Claimant did not appear at hearing. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA) benefits.

FINDINGS OF FACT

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

1. On or about May 15, 2009, claimant applied for MA. The application indicates claimant resides in adult foster care and receives Social Security benefits as a disabled adult child. Department Exhibit A, pgs 1-16. Claimant's DAC status is established by the Social Security suffix. Joint Exhibit A.
2. On unknown date, the department prepared an MA budget and included income from claimant's DAC benefits and income from a trust established for claimant's benefit and paid to claimant's mother as a trustee. Department Exhibit A, pgs 19-25. After all

allowable deductions, claimant was determined to have a monthly deductible of \$950.00 Department Hearing Summary.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

MA is available to a person receiving disabled adult children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act if he or she:

- Is age 18 or older; and
- Received SSI; and
- Ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
- Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and
- To receive DAC RSDI a person must have a disability or blindness that began before age 22.
- Would be eligible for SSI without such RSDI benefits.

Assume a person is receiving DAC RSDI benefits if one of the following descriptions applies:

- He has been identified as a DAC by central office or an SSI letter (see Exhibit II) and his social security claim number suffix contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.).
- He is more than 19 years 2 months old and his social security claim number suffix contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.).
- He is age 18 or older, **not** a full-time student in elementary or secondary school and his social security claim number contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.).

Income eligibility exists when net income does **not** exceed the special protected income level in RFT 245. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible.

Determine countable income according to MA policies in BEM 500 and 530 **except** as explained in “**COUNTABLE RSDI**” below. Apply the deductions in BEM 541 to countable income to determine net income.

COUNTABLE RSDI

Exclude all RSDI benefits for the person whose DAC eligibility is being determined.

For all other persons, countable RSDI is the person's gross RSDI for the month being tested. Gross RSDI means the amount before any deductions such as Medicare.

Bridges Eligibility Manual (BEM) 158; Social Security Act, Section 1634(c); Deficit Reduction Act 2005; Social Security Act 1903(x); PL 109-171

Count payments from a trust to a beneficiary as the beneficiary's unearned income.

BEM 500; Social Security Act Sections 1902(a)(10), 1931; 42 CFR 435, Subparts H and I; MCL 400.106.

When determining eligibility for MA, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. DAC Social Security benefits are excluded and are not counted when determining MA eligibility for the DAC individual. BEM 158. Trust disbursements are countable only when paid to the trust beneficiary. BEM 500.

In this case, the Administrative Law Judge has examined the record and the department policy and finds that the department incorrectly calculated claimant's countable income. Claimant receives Social Security benefits as a DAC and, as such, her Social Security income is excluded when determining MA eligibility. Income received by claimant's mother from the trust established for claimant's benefit is also not countable income under department policy as the payment is not made directly to the beneficiary, i.e. the claimant. BEM 158, 500; Department A, page 25. Accordingly, a preponderance of the evidence establishes that the department improperly counted income that should have been excluded when it determined claimant's eligibility for MA. Therefore, the department's action can not be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance benefits.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's MA eligibility in compliance with department policy and this decision and order.

_____/S/_____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 29, 2010

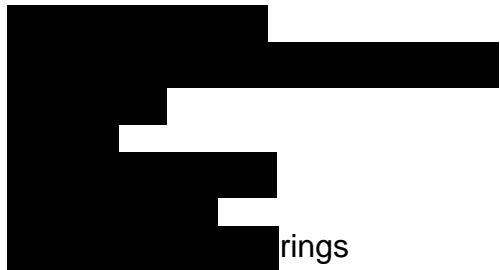
Date Mailed: November 30, 2010

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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JAB/db

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