

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

IN THE MATTER OF:

[REDACTED]

Reg No. 201016773
Issue No. 2003
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: July 8, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, an in-person hearing was held on Thursday, July 8, 2010. The claimant personally appeared and testified with his legal guardian and authorized representative, [REDACTED], and case manager from [REDACTED].

ISSUE

Did the department properly determine that the claimant was not eligible for MA benefits under the Disabled Adult Child (DAC) program?

FINDINGS OF FACT

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

1. The claimant was a recipient of MA benefits.
2. On October 1, 2009, the department caseworker noted that a determination from Central Office had not been done to determine a DAC status for the claimant and she requested one.
3. On October 20, 2009, the department caseworker received a response from Central Office stating that the claimant was not eligible for MA as a DAC because SSI stopped for reasons other than a DAC RSDI increase. Department Exhibit 1-2.

4. On October 20, 2009, the department caseworker sent the claimant and his legal guardian notice that the claimant was no longer eligible for MA effective December 1, 2009 because the claimant was not eligible as a DAC, but is eligible under a Group 2 MA spend-down with a deductible.
5. On December 14, 2009, the department received a hearing request from the claimant's legal guardian, contesting the department's negative action.
6. During the hearing, the department caseworker highlighted a DHS/SSA referral, Michigan Department of Human Services, DHS-3471, for the claimant that stated that the claimant's SSI payments stopped in April 1992 and the record was terminated in April 1993. The claimant's SSI did not stop as a result of DAC RSDI start or increase. The claimant's SSI stopped because of a change in living arrangements from adult foster care to independent living. Department Exhibit 3.

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).

The department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

MA GROUP COMPOSITION

DEPARTMENT POLICY

LIF

Group composition policy for Low-Income Families (LIF) is in PEM 110. Do not use the policy in this item to determine group composition for LIF. PEM, Item 211, p. 1.

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Use fiscal groups and, for SSI-related MA, Group 2 Persons Under Age 21 and Group 2 Caretaker Relative, asset groups to determine the financial eligibility of a person who requests MA and meets all the nonfinancial eligibility factors for an MA category.

Individual family members may be eligible under different MA categories. You must explore all categories for each person who requests MA. See “CHOICE OF CATEGORY” in PEM 105. PEM 211, p. 1.

DEFINITIONS

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

“**Child**” means an unmarried person under age 18.

“**Adult**” means a person who is married or age 18 or older. PEM, Item 211, p. 1.

RULES FOR GROUPS

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Determine the fiscal and asset groups separately for each person requesting MA. When referring to the group listings, remember:

- . Only persons living with one another can be in the same group. See **“LIVING WITH.”**
- . Certain persons cannot be fiscal or asset group members in SSI-related MA. See **“EXCLUDED PERSONS”**.
- . There is NO asset test for Group 2 FIP-related MA and the Healthy Kids categories.
- . **For all Group 2 FIP-related MA and Healthy Kids categories**, when a child lives with both parents who do not live with each other (e.g., child lives with his mother two weeks each month and his father the other two weeks), only one parent, the primary caretaker, is in the fiscal group. You must determine a **primary caretaker**. The primary caretaker is the parent who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is

being made. Vacations and visitations with the absent parent do not interrupt primary caretaker status. See rules in PEM 255 concerning support from the other parent. See "Verification Sources" in this item:

.. Joint physical custody occurs when parents alternate taking responsibility for the child's day-to-day care and supervision. It may be included in a court order or may be an informal arrangement between parents. A child is considered to be living with only one parent in a joint custody arrangement. This **parent is the primary caretaker.**

- . **For all Group 2 FIP-related MA and Healthy Kids categories**, count a pregnant woman as at least two members. If twins **are verified**, count the woman as three, etc.
- . **For PEM, Item 125 and 126 categories only**, continue to count the woman as two (or three, etc.) for two calendar months following her pregnancy termination for each unborn not resulting in a live birth. PEM, Item 211, pp. 1-2.

DEPARTMENT POLICY MA Only

This is an SSI-related Group 1 MA category.

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:

1. Is age 18 or older; and
2. Received SSI; and
3. 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

4. Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and

Note: To receive DAC RSDI a person must have a disability or blindness that began before age 22.

5. Would be eligible for SSI without such RSDI benefits.

The Social Security Administration notifies central office when SSI terminates for a person meeting the criteria in 1-4 above. Notification is via a code on State Data Exchange (SDX) tapes. Central office sends a memo (see EXHIBIT I) to the appropriate local office. See SSI TERMINATIONS in BEM 150.

All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount.

DAC MA recipients eligible for Medicare are covered by the Buy-In Program (see BAM 810) and are considered eligible for QMB (BEM 165). BEM 158, Page 1.

In the instant case, the claimant had been receiving MA as a DAC child. On October 1, 2009, the department caseworker noted that a DAC determination had never been made for the claimant and requested Central Office to determine the claimant's DAC status. On October 20, 2009, Central Office replied that the claimant was not eligible for DAC benefits for MA because SSI stopped for reasons other than a DAC RSDI increase. The claimant changed his living arrangement from an adult foster care home to an independent living status.

Therefore, the department has established that it was acting in compliance with department policy by determining that the claimant was not eligible for MA under the DAC program, but eligible for a Group 2 MA spend-down with a deductible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department appropriately determined that the claimant was not eligible for the DAC program, but eligible for Group 2 MA spend-down with a deductible.

Accordingly, the department's decision is **AFFIRMED**.

/s/

Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 27, 2010

Date Mailed: August 27, 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 mailing 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.

CGF/vc

cc:

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