

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-54129
Issue No.: 2011
Case No.: [REDACTED]
Hearing Date: September 12, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 12, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant Disabled Adult Child (DAC) related Medicaid (MA)?

FINDINGS OF FACT

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

1. Claimant was an MA recipient in Oakland County.
2. Claimant was considered for DAC MA in January 2012.
3. Claimant was denied DAC MA for failing to meet eligibility requirements on January 31, 2012.
4. Claimant currently receives RSDI as a DAC.
5. In April, 2012, Claimant was removed from Freedom to Work (FTW) MA, for income ineligibility.

6. Claimant was given a deductible of \$1,123.
7. Claimant was sent a notice of case action on April 25, 2012.

On May 7, 2012, Claimant requested a hearing to protest the denial of DAC MA and the closure of the FTW MA.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98

and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Claimant argues that he should have been eligible for DAC MA.

BEM 158, pg 1 (2010) states that:

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

Claimant is currently receiving RSDI benefits under section 202 (d) of the Social Security Act, is over 18, has received SSI in the past, and would be eligible for SSI without these RSDI benefits.

However, in a memo dated January 31, 2012 (Department Exhibit 9), the Department states that Claimant is not eligible for DAC MA because "SSI eligibility ended due to other income (subsidies) as reported by SSA, not due to the start or increase of any DAC RSDI benefits." Therefore, the Department alleges that Claimant is not eligible for DAC MA because Claimant fails to meet part three of the eligibility requirements listed above.

Unfortunately, the Department has failed to provide any evidence to support their position.

The Department was unable to testify as to what "subsidies" ended SSI eligibility, or when these "subsidies" took effect. While the evidence shows that Claimant is currently receiving DAC RSDI, there was no evidence presented as to whether when this RSDI started or whether it started soon after Claimant's SSI ceased. In short, the Department has failed to establish a chronology that shows that Claimant's SSI eligibility ended due to some other factor than the receipt of DAC RSDI. The Administrative Law Judge, at the current moment in time, is unable to ascertain exactly what these "subsidies," which were relied upon by the Department to deny DAC MA, were, or how much they were. The undersigned cannot make a definitive declaration that the Department's action was

correct, because the undersigned cannot determine what information the Department used to take their action.

As such, the Administrative Law Judge must reverse the Department's action, and have the Department re-evaluate Claimant for DAC eligibility. As such, while it appears that Claimant is ineligible for FTW MA based upon the amount of his unearned income, any such declaration is premature, because FTW MA should not have been at issue in the first place until an adequate determination of DAC eligibility had been made. The current determination is inadequate and, therefore, must be reconsidered.

DECISION AND ORDER

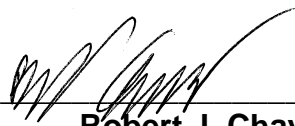
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when . did not act properly when denying Claimant DAC eligibility.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a reconsideration and reevaluation of Claimant's DAC MA eligibility.
2. Should Claimant be denied DAC MA eligibility, eligibility for all other MA programs must be considered.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 21, 2012

Date Mailed: September 21, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

