

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20133234
Issue No: 2014
Case No: [REDACTED]
Hearing Date: February 13, 2013
Macomb County DHS #36

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 received by the Department of Human Services (department) on October 3, 2012. After due notice, a telephone hearing was held on February 13, 2013. Claimant was represented by attorney [REDACTED], P58035, and Claimant's mother, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department has acted in accordance with the standard of promptness in determining Claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. Claimant was a recipient of MA benefits at all times pertinent to this hearing.
2. On September 5, 2012, the department notified Claimant in relevant part that, effective August 1, 2012, Claimant's Group 2 Aged, Blind, Disabled Medicaid MA benefits had been denied. The department further informed Claimant that, effective September 1, 2012, she had been approved for Medicaid and would be subject to a deductible in the amount of \$ [REDACTED]. Specifically, Claimant was advised that she would become eligible for MA benefits when her allowable expenses exceeded the deductible amount. (Department Exhibits A, C)

3. On October 3, 2012, Claimant's authorized representative submitted a Request for Hearing, protesting the department's determination that Claimant is not eligible for Group 2 Aged, Blind, Disabled Medicaid Benefits. In doing so, Claimant's authorized representative asserted and attached supporting SSA correspondence indicating that Claimant has DAC status with the Social Security Administration. (Department Exhibit D)
4. On October 4, 2012, the department obtained verification that, effective March 1, 2012, Claimant has been receiving Disabled Adult Child (DAC) RSDI benefits. (Department Exhibit B)
5. On or about December 12, 2012, the department's Saginaw County branch office submitted a request to the department's central office for a determination of Claimant's potential eligibility for Medicaid based on BEM 158, Disabled Adult Children. (February 13, 2013 Hearing Testimony, Khaled Abou-Elazm)

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA) program was 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI-related.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories.

Disabled Adult Children is an SSI-related Group 1 MA category that 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
Note: 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. BEM 158, p. 1.

An individual may be 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 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.). BEM 158, pp. 2-3.

When an individual meets a bullet listed above, the department must request a screening for DAC eligibility from central office unless a determination has already been completed by central office. BEM 158, p. 3. After the department receives verification of DAC RSDI from central office, the department must still determine whether all other factors for MA eligibility have been met, including income and assets, as set forth in BEM 158.

The department's standard of promptness (SOP) for determining MA eligibility begins the date the department receives an application/filing form, with minimum required information. BAM 115, p. 12. Thereafter, the department must certify program approval or denial of the MA application within 45 days, or within 90 for MA categories in which disability is an eligibility factor. BAM 115, p. 13.

In this case, it is clear that, at least as of October 4, 2012, the department possessed verification that Claimant has been receiving Disabled Adult Child (DAC) RSDI benefits since March 1, 2012. However, the department's representative, [REDACTED], acknowledged during the February 13, 2012 hearing that he did not submit a request to the department's central office for a determination of Claimant's potential eligibility for Medicaid based on BEM 158, Disabled Adult Children, until sometime on or after December 12, 2012. [REDACTED] further acknowledged that the matter still remains pending with the department's central office and no determination of Claimant's potential eligibility for Medicaid based on BEM 158, Disabled Adult Children has thus far been made.

Consequently, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the department has not acted in accordance with the 90-day standard of promptness required by BAM 115 for determining Claimant's eligibility for MA Disabled Adult Children benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not acted in accordance with the 90-day standard of promptness required by BAM 115 for determining Claimant's eligibility for MA Disabled Adult Children benefits. The department is therefore **ORDERED** to immediately process and render a determination on Claimant's potential eligibility for Medicaid based on BEM 158, Disabled Adult Children, in accordance with the 90-day standard of promptness required by BAM 115.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 19, 2013

Date Mailed: February 19, 2013

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.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

