

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20135608

Issue No: 2027

Case No: [REDACTED]

Hearing Date: February 21, 2013
Kent County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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, February 21, 2013. Claimant appeared and provided testimony on his behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED]

ISSUE

Was loss of State SSI for July, 2012 established?

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 September 5, 2012 the DHS terminated the State SSI based on Medicaid related SSI and approved Medicaid SSI based on add-care per BEM 150, Pgs. 5 & 6.
2. On August 6, 2012 Social Security changed the claimant from SSI to RSDI and the DHS performed an ex parte review and approved State SSI based on RSDI without any lapse in State SSI coverage.
3. Claimant received State SSI under the SII related program for July, 2012 without any lapse under the conversion to MAP-P Ad-Care beginning August, 2012.

CONCLUSIONS OF LAW

The claimant's representative claimed that BEM 150, Pgs. 5 & 6 violated Federal law. She provided no Federal law at the hearing. The ALJ conducted a conference with the

claimant's representative and the DHS representative. The DHS policy above was brought up at the conference because the claimant's representative said she was not familiar with the policy. She was informed that the DHS would have provided her with a copy, had she requested it before the hearing. After she reviewed the policy she acknowledged that the DHS representative had correctly followed it and its redetermination, but still maintained that it was in violation of federal law.

The legal base for the above policy is 42 CFR 435.120, .230. BEM 150, Pg. 7.

ALJ's are not permitted to guess or speculate as to material facts and disputes. The claimant's representative had the burden of proof to cite specific federal law in question.

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, July 13, 2011, per PA 1939, Section 9, Act 280.

Therefore, the claimant's representative has not sustained his burden of proof through his representative as a matter of law, to establish DHS policy violated federal law.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that change of State SSI based on related Medicaid and approved State SSI based on Medicaid Ad-Care was correctly established.

Accordingly, MA-P denial is **UPHELD**.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 9, 2013

Date Mailed: April 9, 2013

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.

WAS/hj

cc:

