

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

IN THE MATTER OF:

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Reg No. 2013-14440
Issue No. 2026
Case No.. ██████████
Hearing Date: April 8, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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, a telephone hearing was conducted from Detroit, Michigan on Monday, April 8, 2013. Claimant appeared but was unable to testify (non-verbal). Testifying on behalf of Claimant was ██████████ and ██████████. Participating on behalf of the Department of Human Services ("Department") was ██████████.

ISSUE

Whether the Department properly determined Claimant was not a Disabled Adult Child ("DAC") within the meaning of Bridges Eligibility Manual 158?

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 is an ongoing MA recipient.
2. Prior to age 18, Claimant never received Supplemental Security Income ("SSI").
3. As of August 2004, Claimant began receiving Disabled Adult Child benefits in the form of Retirement, Survivors, and Disability Insurance ("RSDI") income under the record of his father in the amount of \$448.00. (Exhibit 1, p. 14 – 16; Exhibit 2).

4. Claimant receives a Child's Survivor Annuity in the monthly amount of \$567.00.
5. On July 18, 2012, a hearing was held regarding the changing of Claimant's Medical Assistance ("MA") to one that required a deductible be met.
6. As a result of the hearing, on August 6, 2012, a Hearing Decision was issued that, based on the Department's failure to meet its burden of proof, ordered the Department to reinstate full MA coverage as of February 27, 2012.
7. On November 5, 2012, a Notice of Case Action was sent to Claimant notifying him that as of December 1, 2012, his full-coverage MA would close and MA with a \$620.00 deductible was approved. (Exhibit 1, pp. 20, 21)
8. On November 15, 2012, the Department received Claimant's written request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services pursuant to MCL 400.10, *et. seq.* The Department, formally known as the Family Independence Agency, administers the program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

Every child of an individual (fully or currently insured) who dies, is entitled to child's insurance benefits, if an application for child insurance benefits is filed and at the time of application the child is not married and has either not attained the age of 18 or is under a disability which began before the attained age of 22. 20 CFR 404.350; 42 USC § 202(d)(1)(A)(B)(C). The child must have been dependent on the individual at the time of death. 42 USC § 202(d)(1)(C)(ii). Section 216(e) of the Social Security Act defines child as "the child or legally adopted child of an individual. In the case of a child (as defined) of an individual who has died, benefits begin the first month the child meets the criteria specified in subparagraphs (A), (B), and (C) of section 202. In this case, Claimant met the criteria in the month of his father's death.

MA is available to a person receiving DAC's RSDI income under section 202(d) if s/he is age 18 or older; received SSI; ceased to be eligible for SSI on or after July 1, 1987 because s/he became entitled to DAC RSDI benefits under section 202(d) (above); is currently receiving DAC RSDI benefits; and would be eligible for SSI without such RSDI benefits. BEM 158 (October 2010), p. 1. RSDI benefits for the person whose DAC

eligibility is considered is excluded. BEM 158, p. 2. An individual receiving DAC RSDI benefits if one of the following applies:

- He has been identified as a DAC by central office or an SSI letter and his social security number suffix contains the letter C.
- He is more than 19 years 2 months old and his social security claim number suffix contains the letter C.
- 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.

BEM 158, p. 3. Verification of receipt of DAC RSDI benefits under section 202(d) of the Act is required prior to authorizing DAC MA eligibility and at redetermination. BEM 158, p. 3. Prior to authorizing DAC MA, verification of SSI on the basis of blindness or a disability and termination of SSI on or after July 1, 1987 because of entitlement to DAC RSDI benefits or an increase in such benefits must be obtained. BEM 158, p. 3.

In this case, Claimant's father passed away when he was an infant. Additionally, Claimant is disabled and has been since childhood. Had an application with the SSA been made, Claimant may have received benefits for two reasons; his survivor status and because of his own disability. An application for SSI benefits was not submitted with the SSA; therefore, Claimant never received SSI benefits.

In August 2004, the month Claimant turned 18, the SSA found Claimant, a DAC, eligible for RSDI benefits under the record of his deceased father. On November 5th, the Department notified Claimant that his full Medicaid coverage would change to coverage that required a monthly deductible of \$620.00. The Department considered Claimant's RSDI and Annuity income because Claimant did not meet the requirements of BEM 158 regarding disabled adult children. The sole reason Claimant does not meet this provision, is that SSI was never applied for, thus never received, prior to turning 18 years of age. An eligibility requirement of BEM 158 is that the individual, prior to turning 18, received SSI. Statutory provisions and case law were reviewed to determine whether BEM 158 was in contradiction. Unfortunately, no support was found. Acknowledging the undersign lacks equitable jurisdiction, because Claimant never received SSI, the Department's finding that Claimant is not a DAC within the meaning of BEM 158, thus consideration of Claimant's income was correct in determining MA eligibility which ultimately resulted in MA coverage with a \$620.00 monthly deductible. Although Claimant suffered both the loss of his father and is (and was since childhood) disabled, policy does not contain any exception for this type of situation. Despite being on the verge of unconscionable, the undersigned is bound by policy, and as such, it is found that the Department properly determined Claimant was not eligible for benefits pursuant to BEM 158, therefore correctly determined Claimant's MA eligibility under the deductible program.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department establish it acted in accordance with department policy determined Claimant's MA eligibility.

Accordingly, it is ORDERED:

The Department's MA determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 30, 2013

Date Mailed: July 30, 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. (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.

2013-14440/CMM

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

CMM/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
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