

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

IN THE MATTER OF:



New Reg. No.: 201365293
Old Reg. No.: 201314440
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County DHS: Wayne (15)

SUPERVISING ADMINISTRATIVE LAW JUDGE: Kathleen H. Svoboda

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to a timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on April 8, 2013 and mailed to Claimant on July 30, 2013, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs at issue, and may be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Request for Reconsideration was generated October 23, 2013.

ISSUE

Did the Administrative Law Judge (ALJ) err in upholding the Department's determination that Claimant was not eligible for Medical Assistance (MA) benefits pursuant to Bridges Eligibility Manual (BEM) 158 because Claimant was not a Disabled Adult Child ("DAC") within the meaning of BEM 158?

FINDINGS OF FACT

Upon a review of the entire hearing record, including the recorded testimony and evidence admitted, in addition to a review of the applicable law and policy governing the

issues in this matter, this Administrative Law Manager incorporates the findings of fact of the Administrative Law Judge who conducted the hearing on April 8, 2013.

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 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.

MA is available to a person receiving DAC's RSDI income under section 202(d) of the Social Security Act 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 may be 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 the instant case, Claimant's authorized hearing representative (Claimant's mother and legal guardian) seeks reconsideration of the ALJ's determination that the Department correctly concluded that Claimant is not a Disabled Adult Child (DAC) within the meaning of Bridges Eligibility Manual (BEM) 158. In support of her request, Claimant's authorized hearing representative ("AHR") notes the following:

[Claimant] has been identified as a DAC by central office or an SSI letter and his Social Security number suffix contains the letter C.

[Claimant] has the SSI letter in which it identified him as an adult child with benefits in his case file, where it said this has been in effect since [REDACTED].

[Claimant] is also more than 19 years and 2 months and his social security claim number suffixes contain the letter C.

[Claimant] is 27 years old, his date of birth is [REDACTED], and his claim number is [REDACTED].

In the Judge's decision, it was stated that Claimant has never had an application with SSA. Claimant did file with SSA in [REDACTED], which is why we have the letter of award that states [Claimant] is a disabled adult child receiving benefits under his father's social security.

In the Conclusions of Law portion of the Hearing Decision, the Administrative Law Judge determined as follows, in relevant part:

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 [REDACTED], 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 [REDACTED]. 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 undersigned 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 [REDACTED] 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.

Having reviewed the case file, exhibits and hearing record in this matter, it is clear that the testimony and evidence presented by both Claimant's AHR and the Department supported the ALJ's determination in the Hearing Decision that Claimant was not eligible for MA benefits under the Disabled Adult Child provisions of BEM 158. To be sure, while Claimant's AHR asserts in her reconsideration request that the ALJ incorrectly concluded that Claimant was not eligible for MA benefits under BEM 158 where the evidence clearly shows that Claimant receives DAC RSDI income, the receipt of RSDI income is only the first prong of the MA eligibility factors.

As noted above, under BEM 158, MA is available to a person receiving DAC's RSDI income under section 202(d) of the Social Security Act **if**:

- s/he is age 18 or older; **and**
 - received SSI; **and**
 - s/he 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); **and**
 - she is currently receiving DAC RSDI benefits; **and**
 - s/he would be eligible for SSI without such RSDI benefits.
- BEM 158 (October 2010), p. 1. (Emphasis added)

In this case, the hearing record reflects that there was no disagreement amongst the parties that Claimant never applied for or received SSI benefits before he turned 18, which is one of the aforementioned criteria for eligibility for MA under BEM 158. The hearing record further reflects that the ALJ spent considerable time before, during, and after the hearing analyzing whether BEM 158 was contrary to relevant statutory provisions and case law by disallowing Claimant's MA eligibility if Claimant would have otherwise been eligible for SSI before the age of 18 but for his precedent eligibility for RSDI survivor benefits due to his father's death when Claimant was an infant. To this end, the ALJ even extended the hearing record by one week to allow Claimant's AHR additional time to obtain documentation from the Social Security Administration establishing that, notwithstanding Claimant's eligibility for RSDI survivor benefits as a result of the loss of his father when Claimant was an infant, Claimant would have been entitled to SSI benefits before the age of 18. However, while Claimant's AHR did obtain and timely submit to the ALJ correspondence from the SSA immediately following the April 8, 2013 hearing, this correspondence (dated April 8, 2013) merely indicated that, "if [Claimant] were not receiving benefits as a Disabled Adult Child, he **may** have been eligible for supplemental security income if he has met all the requirements." (Emphasis added)

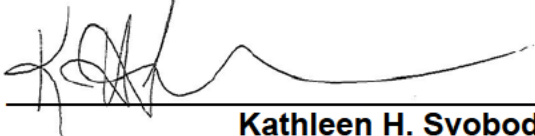
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Accordingly, it is found that the Administrative Law Judge correctly upheld the Department's determination that Claimant was not eligible for MA benefits pursuant to BEM 158 because Claimant was not a DAC within the meaning of BEM 158 due to Claimant not having ever received SSI benefits.

DECISION AND ORDER

The Administrative Law Manager, based on the above findings of fact and conclusions of law, finds that the Administrative Law Judge correctly upheld the Department's determination that Claimant was not eligible for MA benefits pursuant to BEM 158 because Claimant was not a DAC within the meaning of BEM 158 due to Claimant not having ever received SSI benefits.

Accordingly, it is ordered that the decision of the Administrative Law Judge generated at the conclusion of the April 8, 2013 hearing and mailed on July 30, 2013 is **AFFIRMED** and the action taken by the Department is **UPHELD**.


Kathleen H. Svoboda
Supervising Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 20, 2013

Date Mailed: December 20, 2013

NOTICE: The law provides that within 30 days of receipt of the above Reconsideration Decision and Order, the claimant may appeal it to the circuit court for the county in which he/she lives.

KHS/aca

cc:

