

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006501
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: August 4, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on August 4, 2014, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's mother, testified and appeared as Claimant's authorized hearing representative (AHR). [REDACTED] Claimant's stepfather testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's potential Medical Assistance (MA) eligibility through the Disabled Adult Child (DAC) program.

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 ongoing Medicaid recipient, presumably based on DAC eligibility.
2. Claimant is not a former Supplemental Security Income (SSI) recipient.
3. On [REDACTED], DHS determined Claimant to be eligible for Medicaid subject to a \$651/month deductible, effective 6/2014, in part, by determining that Claimant was not a DAC.
4. On [REDACTED], Claimant's AHR requested a hearing to dispute the termination of Claimant's ongoing Medicaid eligibility.

5. On [REDACTED] 4, an administrative hearing was held.
6. During the hearing, the record was extended 30 days to allow each party to submit documentation verifying Claimant's SSI benefit history; an Interim Order Extending the Record was subsequently issued.
7. On [REDACTED] DHS faxed additional documents, none of which were admitted as exhibits because they did not pertain to Claimant's receipt of SSI benefits.
8. On [REDACTED], Claimant's AHR submitted additional documentation (Exhibits A1-A2).

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's mother requested a hearing to dispute a termination of her son's Medicaid eligibility. It was presumed that Claimant's Medicaid eligibility was based on DAC status. It was not disputed that Claimant literally was a severely disabled adult child. It was disputed whether Claimant was a "disabled adult child", as defined by DHS policy.

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.

BEM 158 (4/2014), p. 1.

DHS terminated Claimant's ongoing Medicaid eligibility through DAC based on Claimant's absence of SSI benefit history (see Exhibit 4). DHS presented an SOLQ

(Exhibits 1-3) to support their claim. An SOLQ lists information obtained from a data exchange with SSA. The SOLQ listed no SSI history for Claimant.

Claimant's mother responded that Claimant was a former SSI recipient. The record was extended 30 days to allow Claimant's mother to furnish proof of her son's receipt of SSI benefits. Claimant's mother presented a Benefits Planning Query (Exhibits A1-A2). The document is presumed to have been obtained from SSA based on a request by Claimant's mother. The first page of Claimant's submission had two columns, a Social Security Disability Insurance (SSDI) and SSI. The SSDI column listed that Claimant had a disability onset date of [REDACTED], an entitlement date of 8/2004, a full amount of \$462.60 and other information concerning Claimant's eligibility. The SSI column stated "no record". Based on the presented evidence, it is found that Claimant has no history of SSI benefits.

Without a history of SSI benefits, it can only be found that Claimant is not entitled to Medicaid as a DAC. Accordingly, it is found that DHS properly terminated Claimant's full Medicaid eligibility. This finding is technically correct based on applicable DHS policy. Given Claimant's circumstances, further discussion is merited.

Details of Claimant's disability were not provided because they were not relevant. It was painfully obvious from observing Claimant for just a few minutes during the hearing that he is severely disabled. Claimant was unable to verbally communicate other than grunting. Claimant repeatedly required his mother's attention after rising and slamming himself back into his chair. If given the chance, it is certain that Claimant's mother could verify that Claimant is markedly impaired from performing the simplest of human functions. It is easy to imagine that Claimant's medical conditions require doctor visits, medications, intensive therapy, and constant supervision. It is also easy to imagine that denying Claimant's DAC eligibility deprives Claimant from realistically obtaining much needed medical care due to deductible status.

Presumably, the only reason that DHS requires a history of SSI benefits for DAC benefits is to verify disability. As it happened, Claimant's mother provided some evidence to explain why Claimant lacks any SSI payment history.

It was not disputed that Claimant received \$462/month in survivorship benefits and an additional \$584/month from his father's pension. Claimant's mother credibly testified that Claimant's father died shortly after Claimant's birth. Presumably, Claimant was never eligible for SSI benefits only because the total income that resulted following his father's death was slightly higher than the income limits for SSI. The result is that Claimant is DAC income-eligible but ineligible for SSI due to excess income while being ineligible for DAC because of the absence of SSI benefits. Basically, DHS policy justifies denials of DAC for children of working parents that die before a child can become SSI eligible.

DHS is strongly advised that some exception be crafted so that severely disabled persons, like Claimant, are not denied critical medical coverage solely because of an absence of SSI benefit history. For example, DHS could amend their policy to allow for an exception that excuses an absence of SSI history for children that are disabled and receive survivor benefits. DHS should also be warned that if Claimant's case was brought to a public forum, DHS would be embarrassed trying to defend their policy as applied to Claimant's circumstances.

If the undersigned had authority to ignore DHS policy for one case, this is the case where it would be done. An administrative judge does not have the discretion to alter, overlook, or misapply clearly written DHS policy. DAC eligibility policy is clear and unequivocal concerning requiring receipt of SSI benefits. It is only hoped that for Claimant and his parents' sake, that DAC policy is quickly changed to reflect the circumstances and needs of Claimant

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's Medicaid eligibility as a DAC, effective 6/2014. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/24/2014**

Date Mailed: **9/24/2014**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

cc:

