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

IN THE MATTER OF:

Reg. No.:	14-013004
Issue No.:	2001
Case No.:	
Hearing Date:	January 21, 2015
County:	MACOMB-DISTRICT 12

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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, a telephone hearing was held on January 21, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant's mother and legal guardian, Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator

ISSUE

Did the Department properly close Claimant's Medical Assistance and Medicare Savings Program beginning October 1, 2014?

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 recipient of Medical Assistance and Medicare Savings Program benefits.

2. On September 15, 2014, DHS-DAC-Determination issued a memorandum stating Claimant was not eligible for MA as a DAC because "SSI eligibility ended due to failure to pursue benefits as reported by SSA, not as the result of any start of DAC RSDI benefits."

3. On September 15, 2014, Claimant was sent a Benefit Notice (DHS-176) which stated Claimant's Medical Assistance coverage would change from MA DAC to MA G2S with a $ deductible. The notice also stated that Claimant was not eligible for Medicare Savings Program benefits beginning October 1, 2014.

4. On September 22, 2014, Claimant's mother and legal guardian submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The 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.

Bridges Eligibility Manual (BEM) 158 Disabled Adult Children (2014) governs MA DAC eligibility. Both in the hearing request and at this hearing, Claimant's mother and legal guardian asserted that the report the Department used was neither complete nor correct. During this hearing the Department representative testified that the local office took action based on the memorandum from DHS-DAC-Determination (Dept Exhibit-2A). The memorandum states Claimant was not eligible for MA as a DAC because "SSI eligibility ended due to failure to pursue benefits as reported by SSA, not as the result of any start of DAC RSDI benefits." The memorandum also states Claimant's SSI eligibility end date was 02/01/2010 and his disability onset date was 03/05/1981.

Claimant's Single Online Query (SOLQ) Report (Dept Exhibit 3) is in the record. Claimant's SSI payment status code is T31. The Department has not submitted any evidence showing what the T31 code means. Online research by myself indicates the T31 code means "terminated system generated termination (payment previously made). The SOLQ states that Claimant's current SSI pay status date is 12/01/1993 where the memorandum states Claimant's SSI eligibility end date was 02/01/2010. In the SOLQ SSI information section, Claimant's onset date of disability is listed as 05/01/1989 where the memorandum states Claimant's disability onset date was 03/05/1981. In the SOLQ RSDI information section, Claimant's disability onset date is listed as 10/30/1983 where the memorandum states Claimant's disability onset date was 03/05/1981. Claimant's RSDI claim account number in the SOLQ, matches the identifying criteria in BEM 158 (page 3) for being a DAC RSDI recipient.

BEM 158 at pages 4 & 5 identifies "memo or other communication from central office" as valid verification sources for eligibility criteria. However, the reason for Claimant's ineligibility stated in the September 15, 2014 memorandum from DHS-DAC-Determination is hearsay which does not meet any of the hearsay exceptions listed in

Rule 803 of the Michigan Rules of Evidence. In accordance with the Michigan Administrative Procedures Act, an Administrative Law Judge may admit and give probative effect to any evidence. However, the final decision and order must be supported by and in accordance with competent, material, and substantial evidence. Hearsay is not competent evidence.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's Medical Assistance and Medicare Savings Program beginning October 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-determine Claimant's Medical Assistance and Medicare Savings Program eligibility beginning October 1, 2014.

2. Issue Claimant current notice of the updated Medical Assistance and Medicare Savings Program eligibility determination.

Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/18/2015**

Date Mailed: **2/18/2015**

GFH/hj

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 48909-8139

cc: [redacted]