

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

IN THE MATTER OF:

██████████
████████████████████
██

Reg. No.: 15-003222
Issue No.: 2001
Case No.: ██████████
Hearing Date: April 16, 2015
County: MACOMB-12 (MT CLEMENS)

ADMINISTRATIVE LAW JUDGE: Michael Bennane

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████, the Claimant's sister and guardian. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly remove the Claimant's designation as a Disabled Adult Child (DAC)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On October 1, 2014, the Department removed the Claimant's designation as a DAC.
2. On January 21, 2015, the Claimant received a decision from an ALJ ordering the Department to redetermine his eligibility for Medical Assistance (MA) and Medicare Savings Program.
3. On March 2, 2015, the Claimant requested a hearing to protest the continued removal of the DAC designation.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department states that the Claimant is no longer considered a DAC “because SSI eligibility ended due to failure to pursue benefits as reported by SSA.” The Department relies on BEM 158 demand that pursuit of benefits as presented in BEM 270 must be met. (BEM 158, October, 2014), p.2.

Department policy stated in BEM 270 demands that: “As a condition of eligibility, individuals must apply for any state and/or federal benefits for which they may be eligible. This includes taking action to make the entire benefit amount available to the group.” (BEM 270, October, 2014). p.1.

Neither the SSA or the Department state what benefits the Claimant failed to pursue or file for.

Department policy in BEM 158 demands that certain criteria be met for a Claimant to be designated as a DAC. The requirements are as follows:

1. The person must be 18 years of age or older;
2. received SSI; and
3. ceased to be eligible for SSI on or after July 1, 1987, because the person became entitled to DAC RSDI benefits under Section 202(d) of the Act, or an increase in such benefits.

The Claimant meets all the above criteria.

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 did not act in accordance with Department policy when it removed the Claimant's DAC designation.

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. Reinstate the Claimant's DAC designation retroactively to October 1, 2014, and supplement for any missed benefits.



Michael Bennane
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/27/2015**

Date Mailed: **5/27/2015**

MJB/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
[REDACTED]
[REDACTED]
[REDACTED]
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