



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 19, 2016
MAHS Docket No.: 16-013333
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Following Petitioner'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 November 17, 2016, from Lansing, Michigan. Petitioner was represented by Petitioner's mother and authorized hearing representative [REDACTED]. The Department was represented by Hearing Facilitator [REDACTED]. Department's Exhibit A, pages 1-27 was admitted into evidence. Petitioner's Exhibit 1 pages 1-20 and Petitioner's Exhibit 2 pages 1-5 were admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility on August 29, 2016, for October 1, 2016 ongoing?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient Retirement Survivor Disability Income (RSDI) benefits of \$ [REDACTED] and a reduced amount of Supplemental Security Income (SSI) benefits from the Social Security Administration. Because she received SSI benefits, she was an ongoing recipient of full coverage Medical Assistance (MA) as a Supplemental Security Income (SSI) recipient and was financially eligible to receive Medicare Cost Share benefits.
2. On [REDACTED] Petitioner turned [REDACTED] years old.

3. On July 1, 2016, Petitioner began receiving an increase in her Retirement Survivor Disability Income (RSDI) benefits to \$ [REDACTED]. Petitioner has dual entitlement for Retirement Survivor Disability Income (RSDI) benefits. She receives \$ [REDACTED] as a survivor under one entitlement and \$ [REDACTED] as disabled under the other entitlement. The Social Security Administration changed her Supplemental Security Income (SSI) eligibility status to N01. The status was changed because Petitioner's other Social Security Administration benefits exceeded the maximum amount of SSI benefits. Department's Exhibit A pages 16-22.
4. On August 27, 2016, Petitioner was sent a Health Care Coverage Determination Notice (DHHS-1606) which stated she was not eligible for Medical Assistance (MA).
5. On August 29, 2016, Petitioner was sent another Health Care Coverage Determination Notice (DHHS-1606) which stated she was not eligible for Medical Assistance (MA).
6. On September 6, 2016, Petitioner's mother and authorized hearing representative, [REDACTED], submitted a hearing request. The hearing request asserts that Petitioner is still eligible for Medical Assistance (MA) as a Disabled Adult Child.

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.

Bridges Eligibility Manual (BEM) 158 Disabled Adult Children (10-1-2014) provides:

DEPARTMENT POLICY

MA Only

This is an SSI-related Group 1 MA category.

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:

Is age 18 or older; and

Received SSI; and

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

Is currently receiving DAC RSDI benefits under section 202(d) of the Act; and

Note: To receive DAC RSDI a person must have a disability or blindness that began before age 22.

Would be eligible for SSI without such RSDI benefits.

The Social Security Administration notifies central office when SSI terminates for a person meeting the criteria in 1-4 above. Notification is via a code on State Data Exchange (SDX) tapes. Central office sends a memo (see EXHIBIT I) to the appropriate local office. See SSI TERMINATIONS in BEM 150.

All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount.

DAC MA recipients eligible for Medicare are covered by the Buy-In Program (see BAM 810) and are considered eligible for QMB (BEM 165).

FINANCIAL ELIGIBILITY FACTORS

Groups

Use fiscal and asset group policies for SSI-related groups in BEM 211.

Assets

Countable assets **cannot** exceed the asset limit in BEM 400. Countable assets are determined based on the MA policies in BEM 400, 401 and 402.

Divestment

Policy in BEM 405 applies.

Income Eligibility

Income eligibility exists when net income does **not** exceed the special protected income level in RFT 245. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible.

Determine countable income according to MA policies in BEM 500 and 530 **except** as explained in **COUNTABLE RSDI** below. Apply the deductions in BEM 541 to countable income to determine net income.

COUNTABLE RSDI

Exclude all DAC related RSDI benefits for the person whose DAC eligibility is being determined. Count any RSDI benefits that are not related to DAC.

For all other persons, countable RSDI is the person's gross RSDI for the month being tested. Gross RSDI means the amount before any deductions such as Medicare.

The evidence in this record shows that Petitioner fits the criterion of BEM 158, as a Disabled Adult Child. The financial eligibility budget used by the Department in the Medical Assistance (MA) eligibility determination, includes the \$ [REDACTED] total of both Petitioner's RSDI entitlement benefits. (Department's Exhibit A page 27) The evidence is the record is not sufficient to determine whether either, or both, of Petitioner's RSDI entitlements are DAC related. The totality of evidence does not support the use of all of Petitioner's RSDI benefits in determining her Medical Assistance (MA) eligibility.

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 determined Petitioner's Medical Assistance (MA) eligibility on August 29, 2016.

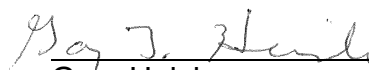
DECISION AND ORDER

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:

Obtain the specific classification of all of Petitioner's RSDI benefits from the Social Security Administration and then re-determine her Medical Assistance (MA) eligibility from October 1, 2016 ongoing to include issuing a current Health Care Coverage Determination Notice (DHHS-1606).

GH/nr



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]