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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 6, 2017
MAHS Docket No.: 16-018305

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 3-way telephone hearing was held on February 8, 2017, from Lansing, Michigan. The Petitioner was represented by [REDACTED] Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED] [REDACTED]. Department Exhibit 1, pp. 1-17 was received and admitted.

ISSUE

Did the Department properly determine Petitioner’s Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. The Department found that Petitioner was eligible for Medicaid with an [REDACTED] spend down.
2. Petitioner receives [REDACTED] in DAC Social Security benefits.
3. Petitioner never received SSI benefits.
4. On January 25, 2017, the DHS-DAC-Determination unit issued a memo regarding Petitioner that states the following: “A review of potential eligibility for Medicaid based on BEM 158, Disabled Adult Children (DAC), has been completed. We find

that this customer is: Not Eligible for MA as a DAC because: [REDACTED] was not eligible for SSI as determined by Social Security.”

5. On December 13, 2016, Petitioner requested hearing contesting the determination that she was not eligible for Full Medicaid

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.

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:

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

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

5. 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).

NONFINANCIAL ELIGIBILITY FACTORS

1. The person must be age 18 or older.
2. The person must have:
 - Received SSI; and
 - 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.

Note: DAC RSDI is also called Childhood Disability Benefits (CDB).

3. The person is currently receiving DAC RSDI benefits.

Note: When SSA employees say someone is a “DAC” they mean he receives DAC RSDI.

4. The MA eligibility factors in the following items must be met.
 - BEM 220, Residence.
 - BEM 221, Identity.
 - BEM 223, Social Security Numbers.
 - BEM 225, Citizenship/Alien Status.
 - BEM 255, Child Support.

- BEM 256, Spousal/Parental Support.
- BEM 257, Third Party Resource Liability.
- BEM 265, Institutional Status.
- BEM 270, Pursuit of Benefits.

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.

IDENTIFYING DACS

An individual may be receiving DAC RSDI benefits if one of the following descriptions applies:

- He has been identified as a DAC by central office or an SSI letter and his social security claim number suffix contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.).
- He is more than 19 years 2 months old and his social security claim number suffix contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.).
- 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. The C may be followed by another letter or number (CA, CB, C1, etc.).

Note: When an individual meets a bullet listed you must request a screening for DAC eligibility from central office unless a determination has already been completed by central office. After you receive verification of DAC RSDI from central office you still need to determine all other factors for MA eligibility (income and asset etc., listed on page 1 of this item) are met. You should retain the copy of the verification from central office as you only need to verify DAC eligibility once.

Requests must be made through your management or central specialized staff (include titles). Send requests to:

DHS-DAC-Determination-Mailbox@michigan.gov and include the beneficiary's name, case number, SSN, SS claim number and any other information pertaining to the request.

Note: An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. See BAM 115 and 220.

VERIFICATION REQUIREMEN TS

Verification of the following factors unique to DAC eligibility is required prior to authorizing DAC MA eligibility:

- Receipt of SSI on the basis of blindness or a disability.
- Termination of SSI on or after July 1, 1987 because of entitlement to DAC RSDI benefits or an increase in such benefits.

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.

Verification policies for other eligibility factors are in the appropriate manual items.

Verification Sources

Receipt of SSI on the basis of blindness or a disability.

- Memo or other communication from central office.
- SSI letter.
- Social Security Administration.

Termination of SSI on or after July 1, 1987 because of entitlement to DAC RSDI benefits or an increase in such benefits:

- Memo or other communication from central office.
- SSI letter.
- Social Security Administration.

Current receipt of DAC RSDI benefits:

- Social security claim number suffix from BENDEX, SOLQ or other Social Security Administration document. See "Identifying DACs."
- SSI letter.
- Social Security Administration. BEM 158

In this case, the Department denied MA-DAC coverage because [REDACTED] was not eligible for SSI as determined by Social Security. Petitioner presented no proof that she ever received or was eligible for SSI. The SOLQ printout provided by the Department gives no indication that Petitioner ever received or was eligible for SSI. Pursuant to BEM 158, Petitioner has failed to establish that she is eligible for MA-DAC, therefore the Department's determination that she was not eligible for MA-DAC was proper and correct.

DECISION AND ORDER

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 acted in accordance with Department policy when it denied her MA-DAC coverage and found she was eligible for MA with a deductible.

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



Aaron McClintic

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

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