



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2018
MAHS Docket No.: 18-006531
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's June 14, 2018, request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 2, 2018, from Lansing, Michigan. Petitioner, [REDACTED] appeared together with [REDACTED] Petitioner's Guardian, [REDACTED] Service Provider, and [REDACTED] Advocate. Tamara Anthony, Eligibility Specialist, and Levina Kattoola, Eligibility Specialist, appeared for the Department.

Three exhibits were admitted into evidence during the hearing:

- Exhibit A – a 51-page packet of documents provided by the Department
- Exhibit 1 – a July 31, 2018, letter from the Social Security Administration
- Exhibit 2 – a March 31, 2011, report of psychological testing and evaluation

ISSUE

Did the Department properly reduce Petitioner's health care coverage effective May 1, 2018?

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 is a developmentally disabled adult. The Social Security Administration has determined Petitioner meets the criteria of a Disabled Adult Child (DAC).
2. In April 1993, the Social Security Administration stopped Petitioner's Supplemental Security Income (SSI) payments due to wages. Exhibit A, p. 21.

3. In June 1993, the Social Security Administration found Petitioner ineligible for SSI payments due to his living arrangements because he moved from an adult foster care home and into an independent living situation. Exhibit A, p. 21.
4. When the Social Security Administration found Petitioner ineligible for SSI payments, it found him eligible for DAC Retirement, Survivors, and Disability Insurance (RSDI). Petitioner continues to receive DAC RSDI. Exhibit A, p. 47.
5. Petitioner is a Medicaid recipient. Petitioner has been receiving health care coverage through the DAC program for more than 20 years. Petitioner did not have a spend down while receiving DAC health care coverage.
6. On March 30, 2018, the Department's DAC division completed a review of Petitioner's DAC eligibility and determined that Petitioner was ineligible for DAC health care coverage because he had ceased to be eligible for SSI payments due to his wages and living arrangement rather than because he became entitled to DAC RSDI benefits. The Department determined that Petitioner's SSI eligibility ceased April 1, 1993. Exhibit A, p. 14.
7. The Department determined that it had erroneously found Petitioner eligible for DAC health care coverage for the past 25 years. Exhibit A, p. 20.
8. The Department calculated a budget for May 2018 for income-based health care coverage. The Department found Petitioner had \$813.00 in unearned income, \$592.00 in earned income, a \$408.00 protected income limit, and a \$649.00 spend down. Exhibit A, p. 30.
9. On April 10, 2018, the Department issued a Health Care Coverage Determination Notice to Petitioner. The Determination notified Petitioner that he was eligible for health care coverage with a spend down of \$649.00 per month effective May 1, 2018. Exhibit A, p. 22-25.
10. On June 13, 2018, the Department issued a Health Care Coverage Determination Notice to Petitioner. The Determination notified Petitioner that he was eligible for health care coverage with a spend down of \$649.00 per month effective May 1, 2018, and that he was eligible for full coverage from May 9, 2018, through May 31, 2018. Exhibit A, p. 26-29.
11. On June 14, 2018, Petitioner filed a hearing request to dispute the Department's Determination which reduced his health care coverage and found him eligible for health care coverage with a spend down.

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.

There are numerous health care coverage programs through Medicaid. BEM 105 (April 1, 2017). An individual may qualify for coverage under more than one program and has a right to coverage under the most beneficial program. BEM 105, p. 2. The most beneficial program is the one that results in eligibility, the least amount of excess income, and the lowest cost share. BEM 105, p. 2.

Health care coverage is available under a Disabled Adult Children (DAC) program. BEM 158 (October 1, 2014). In order to be eligible for health care coverage under the DAC program an individual must meet all the eligibility criteria, non-financial and financial. BEM 158. The eligibility criteria include a requirement that the individual must have ceased to be eligible for SSI because the individual became entitled to DAC RSDI (or an increase in DAC RSDI). BEM 158, p. 1.

Here, the Department discovered that Petitioner had ceased to be eligible for SSI payments in 1993 because of a change in his living arrangement. Since the event that caused Petitioner to cease to be eligible for SSI was anything other than because he became entitled to DAC RSDI (or an increase in DAC RSDI), the Department found that Petitioner did not meet the eligibility criteria for health care coverage under the DAC program. The Department acknowledged that this change took place 25 years ago and that the Department has been providing Petitioner with health care coverage under the DAC program ever since the change took place 25 years ago. The Department explained that it just discovered the error and decided to take action once it discovered it.

The Department's correctly found Petitioner ineligible for health care coverage under the DAC program according to its policy. The Department's policy states that an individual is only eligible for health care coverage under the DAC program if the individual ceased to be eligible for SSI payments because he became entitled to DAC RSDI (or an increase in DAC RSDI). The Social Security Administration found that Petitioner ceased to be eligible for SSI payments because of a change in his living

arrangement. Thus, the reason Petitioner ceased to be eligible for SSI payments was a reason other than the one required to be eligible for health care coverage under the DAC program. The Department did not make the decision to end Petitioner's SSI eligibility, and the Department is bound by the reason that the Social Security Administration provided.

Since the Department found Petitioner ineligible for health care coverage under the DAC program, the Department considered his health care coverage options under other programs. The Department determined that the most beneficial health care coverage Petitioner was eligible for was the group 2 aged, blind, and disabled program.

Petitioner did not dispute the Department's budget which calculated his spend down under the group 2 aged, blind, and disabled program. Based on a review of the budget, it appears the Department correctly calculated Petitioner's spend down for the month of May 2018.

For these reasons, I must find that the Department acted in accordance with its policies.

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 did act in accordance with its policies and the applicable law when it issued its April 10, 2018, Health Care Coverage Determination which reduced Petitioner's health care coverage effective May 1, 2018.

IT IS ORDERED the Department's April 10, 2018, Determination is AFFIRMED.

JK/nr



Jeffrey Kemm
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) 763-0155; 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

Vivian Worden
41227 Mound Rd.
Sterling Heights, MI 48314

Macomb 36 County DHHS- via electronic mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]

Petitioner

[REDACTED], MI [REDACTED]