



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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MI [REDACTED]

Date Mailed: August 17, 2020
MOAHR Docket No.: 20-003402
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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; 42 CFR 438.400 to 438.424; 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 August 4, 2020, from Lansing, Michigan. The Petitioner was represented by Michael Walt (P63422). The Department of Health and Human Services (Department or Respondent) was represented by H. Daniel Beaton (P43336). Lisa Holbrook, Family Independence Manager appeared as a witness.

Respondent's Exhibit A pages 1-15 were admitted as evidence without objection. Exhibit B page 1 was admitted.

ISSUE

Did the Department properly determine that Petitioner was not 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. Petitioner's Upper Peninsula Health Plan waiver ended November 30, 2019.
2. This information was received on March 3, 2020.

3. The DHS Worker processed this information on March 11, 2020, and a DHS-1606 was sent to Petitioner notifying Group 2 Spend Down (deductible) Medicaid would begin April 1, 2020 (full Medicaid ending March 31, 2020).
4. Petitioner's Authorized representative (legal guardian) requested hearing on March 31, 2020.
5. The Supervisor reviewed the case on March 30, 2020, (at agency contact request) and noted client has a social security claim number ending in C2.
6. The Department was unable to locate a Disabled Adult Child (DAC) determination in case record.
7. An email was sent to DAC Determination Mailbox on March 30, 2020, requesting a DAC determination for Petitioner.
8. The Department caseworker spoke to Petitioner's authorized representative by telephone on April 1, 2020, to review the hearing request and explain the actions taken.
9. The hearing request was received timely.
10. Full Medicaid was reinstated for Petitioner.
11. The Department was in the process of DAC determination.
12. The Department determined that if client is determined a DAC the case will be updated, and Petitioner will likely receive full Medicaid.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department policy dictates:

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.

(BEM 158, page 1)

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. BEM 158, Emphasis Added

In this case, at the time of the hearing request, the Department had not determined whether Petitioner was categorically eligible to be considered for DAC Medical Assistance eligibility. It properly reinstated Petitioner for full Medicaid, pending the determination. The Department Family Independence Manager testified that she has received information that was not a part of the hearing packet which establishes that Petitioner is not eligible for DAC status. The Department deleted the negative action. Thus, there was no negative action at time of the hearing.

Therefore, this Administrative Law Judge finds the Department must re-determine Petitioner's eligibility for Medical Assistance benefits in compliance with Department policy. The Department improperly reinstated Petitioner's full Medical Assistance without making the full determination as to whether Petitioner has established DAC eligibility. The Department did not establish by the necessary competent, material, and substantial evidence on the record that it acted in compliance with Department policy to conduct a full Medical Assistance eligibility determination at the time of the Request for Hearing. The Department's action must be REVERSED.

DECISION AND ORDER

Accordingly, the Department's actions must be **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. Make a complete determination of whether Petitioner is eligible for DAC status or any other Medical Assistance category;
2. Issue Notice to Petitioner of his eligibility or lack thereof for DAC status; and

3. Provide Petitioner with notice of his eligibility or lack thereof for Medical Assistance under all categories in compliance with Department policy.

LL/hb



Landis Lain
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Alger County via electronic mail

BSC1 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Counsel for Respondent

H. Daniel Beaton, Jr. AAG, via electronic mail

Petitioner

[REDACTED], MI [REDACTED]

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]

Counsel for Petitioner

Michael W. Walt
112 W Washington Ste I
Marquette, MI 49855