STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████,

Claimant

Reg. No: 2008-22430
Issue No: 2006
Case No: ████████
Load No: ████████
Hearing Date:
March 26, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on March 26, 2009.

ISSUE

Are exceptions to DHS policy requirements allowed by ALJs?

FINDINGS OF FACT

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

(1)   On March 20, 2008, the DHS terminated the claimant's Medicaid per PAM 200.

(2)   Claimant's representative doesn't disagree with the correctness of the above DHS negative action.

(3)   Claimant's representative wants an exception to the policy requirements based on the claimant's inability to manage his personal affairs.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security

Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department

of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10,

et seq., and MCL 400.105. Department policies are found in the Program Administrative

Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual

(PRM).

Facts above are undisputed.

> Administrative law judges have no authority to make decisions on
> constitutional grounds, overrule statutes, overrule promulgated
> regulations or overrule or make exceptions to the department
> policy set out in the program manuals. Delegation of Hearing
> Authority, August 9, 2002, per PA 1939, Section 9, Act 280.

Therefore, as a matter of law, this Administrative Law Judge has no legal authority to

grant the claimant's requested exception to DHS policy requirements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions

of law, decides that exceptions to DHS policy requirements are not allowed by ALJs.

Accordingly, Medicaid termination is UPHELD.

/s/_____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed:_ July 7, 2009_____

Date Mailed:_ July 8, 2009_____

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

WAS/cv

cc: