

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-15959

Issue No: 2015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 20, 2008

Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 November 20, 2008. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

(1) November 13, 2007, claimant's representative applied for MA on his and his family's behalf.

(2) January 14, 2008, the department approved Low Income Family (LIF) MA for claimant's wife and step-child. Claimant was approved for Adult Medical Program (AMP) benefits.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

A caretaker relative is a person who acts as parent for the child. Acting as parent means providing physical care or supervision.

A needy caretaker relative, other than a parent, may request LIF and be included in the group, if eligible. That caretaker's spouse living with the caretaker must also be included in the group unless a "LIF Excluded Person."

A parent living in the child's home must be in the group unless excluded under "LIF Excluded Person" below. The parent(s) is usually the child's caretaker relative. However, a non-parent adult relative may be the caretaker relative even when the parent(s) is in the home.

In such a circumstance, the parent(s) and the needy non-parent caretaker relative might be included in the group.

Base your determination on the parent's claim of who acts as parent:

- If the parent claims to act as parent, only the parent and child(ren) are in the group.

- If the parent claims that the other relative is the only person acting as parent, then that other relative has the option of being in the group along with the parent and child(ren).

Program Eligibility Manual (PEM) 110

Social Security Act, Sections 1902(a)(63), 1931

MA is available to a person who is aged (65 or older), blind or disabled. 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 PEM 546 to determine the post-eligibility patient-pay amount.

PEM 166

42 CFR 435.320, .322 and .324

MCL 400.106

Deficit Reduction Act 2005, Social Security Act 1903(x), PL 109-171

Consider eligibility for Medical Assistance (MA), Medical Aid for refugees and Medical Aid for repatriates before authorizing AMP coverage. Clients eligible for MA or other DHS medical benefits are not eligible for AMP.

Exceptions:

AMP should be approved in cases where determination of disability or blindness is delayed.

Clients clearly not eligible for any other medical assistance programs do not have to apply for them.

There are MA categories for clients who are:

- Age 65 or older, blind, or disabled.
- Pregnant or recently pregnant.
- Caretaker relatives of dependent children.
- Under age 21.

PEM 640

Title XXI of the Social Security Act

(1115)(a)(1) of the Social Security Act

In this case, the department determined that the minor child's biological parent is her caretaker relative as she acts as a parent to her daughter. In such cases, only the parent and the child are included in the eligible LIF group. PEM 110. Accordingly, as stepparent, claimant can not be included in the group and its action to exclude him must be upheld.

Regarding claimant's representative's assertion that claimant should have been approved for Emergency Medical Assistance rather than AMP, no evidence was presented to establish claimant is under 21, 65 or older, blind, or disabled. He is not a caretaker relative. PEM 110, 166, 640. Claimant does not meet these basic requirements. Accordingly, AMP is the appropriate program for claimant and the department's action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy. Accordingly, the department's action is **HEREBY UPHELD**.

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

Date Signed: April 16, 2009

Date Mailed: April 17, 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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JAB/db

cc:

