

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: 2008-30682
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 30, 2009
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 July 30, 2009 in Howell. Claimant personally appeared and testified under oath.

Claimant was represented at the hearing by [REDACTED].

The department was represented by Janet Schuster (Community Resource Coordinator).

ISSUE

Did claimant establish that he has the majority of parenting time with his minor daughter, [REDACTED], in April 2008?

FINDINGS OF FACT

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

- (1) Claimant is the father of minor child [REDACTED] ([REDACTED]).

(2) Claimant and [REDACTED] were divorced on July 14, 2005. The judgment of divorce provides that the parties have joint custody of [REDACTED]. Neither party is required to pay support.

(3) In May 2008, [REDACTED] was approved for MA and (Healthy Kids) for [REDACTED]. This determination was based on the fact that [REDACTED] had the majority of the parenting time for [REDACTED].

(4) On April 14, 2008, claimant filed for MA-N based on his parenting time with [REDACTED].

(5) On April 16, 2008, the caseworker sent a DHS-3503 (Verification/Verification Checklist) to claimant asking for verification information and evidence that claimant had more parenting time with [REDACTED].

(6) On April 28, 2008, claimant submitted the required information.

(7) Claimant submitted a letter from the [REDACTED] showing [REDACTED] address as [REDACTED]. This is [REDACTED]' home address.

(a) On June 3, 2008, the caseworker sent a Denial Notice (DHS-1150) to claimant denying MA-N. The following reason was provided: "You cannot prove primary custody of children—mother filed first.

(8) On June 3, 2008, claimant requested a hearing.

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).

Current department policy requires MA-N applicants to cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms and appearing for a face-to-face when requested. PAM 105. Cooperation also includes the requirement that applicant's provide verification of household composition, household income, and household assets and parenting time, when requested. PAM Items 110 and 115.

Department policy also provides that when two competing parties are requesting the same program (MA-N) the parent with the most parenting time is the one entitled to benefits. PEM 135, 211. PAM 105. Current policy also provides that when one parent has an open MA-N case (based on the presence of a minor child in her home), the parent who disputes the department's action has the burden to show that he has the majority of parenting time.

The preponderance of the evidence in the record shows that claimant failed to meet his burden of proof to establish that he had the majority of parenting time for [REDACTED] in April 2008.

The caseworker correctly requested verification of claimant's parenting time and claimant provided a document from the [REDACTED] which showed that [REDACTED] resided at her mother's home [REDACTED]). At the time of application, claimant did not provide any additional information to establish exactly the hours of visitation for each parent.

Based on a careful review of the record, the caseworker correctly denied claimant's request for MA-N due to his failure to meet his burden of proof by establishing that he had the majority of parenting time.

In addition, a careful review of the record reveals no evidence of arbitrary or capricious action by the department in denying claimant's MA-N application.

Therefore, the denial action taken by the department is correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly requested verification of claimant's eligibility factors and correctly denied claimant's application for MA-N based on [REDACTED] parenting time using the information which claimant provided in support of his application.

Accordingly, the action taken by the department, is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 12, 2010

Date Mailed: March 15, 2010

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.

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