

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: 2009-10458

Issue No: 2015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 22, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 22, 2009. Claimant appeared and testified. [REDACTED] claimant's son, was also present. Don Baibak, FIM, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close the children's Medical Assistance (MA) benefits when they were removed from the home by Children's protective Services (CPS)?

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's children were receiving MA benefits under his case.

(2) On July 20, 2008, the three children were removed from the home by CPS.

(Department Exhibit 1)

(3) On July 31, 2008, CPS notified the department by email that the children were removed from the home. (Department Exhibit 1)

(4) On December 3, 2008, the department issued a notice that the children's MA benefits would end on December 16, 2008.

(5) Claimant filed a hearing request to contest the MA determination on December 15, 2008.

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).

Under PEM 211, only persons living with one another can be in the same group. Living with others means sharing a home where family members usually sleep, except for temporary absences. A temporarily absent person is considered in the home. PEM 211.

A person's absence is temporary if for the month being tested:

- . his location is known; and
- . there is a definite plan for him to return home; and
- . he lived with the group before the absence (Note: newborns and unborns are considered to have lived with their mothers); and

- . the absence did not last, or is not expected to last, the entire month being tested unless the absence is for education, training, or active duty in the uniformed services of the U.S. PEM 211.

In the present case, the department was notified by an email from Children's Protective Services that claimant's children were removed from the home and placed in foster care. The email did not indicate that there was a definite plan to return the children to the home or that the removal was going to be for less than a month. Accordingly, the department properly removed the children from claimant's MA group. Therefore the children's MA coverage was closed under claimant's case.

Claimant reasonably argued that the children's MA benefits should not have been canceled and is worried about medical bills that were incurred. The department testified that the closure of the children's MA benefits under claimant's case was necessary so that Foster Care could apply to have MA coverage opened for the children in the new living arrangement. Under PEM 211 the children would be considered part of a different MA group in foster care and MA benefits would have to be approved under a different case. The department representative present at the hearing did not know when or if Foster Care reapplied for MA coverage for the children, but indicated he would check the system after the hearing. If the children were approved for MA benefits under a different case, the department should share the dates the MA coverage was open and the MA identification number with claimant so that he can inform any medical providers with outstanding bills for that time period that the children had MA coverage they can be billed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant's children were no longer eligible for MA benefits under claimant's case when they were removed from the home.

Accordingly, the department's MA determination is AFFIRMED.

/s/ _____
Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 30, 2009

Date Mailed: October 30, 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.

CL/cv

cc:

