

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: 2009-11713  
Issue No: 2024  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 23, 2009  
Oakland 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 September 23, 2009.

ISSUE

Was beginning of March 2008 when the claimant no longer intended to remain in [REDACTED]?

FINDINGS OF FACT

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

(1) Medicaid application on February 2, 2008 retroactive to December 2007 was denied on September 12, 2008 based on claimant's intent not to return to or remain in [REDACTED] per PEM 220.

(2) In the beginning of March 2008, the claimant left the [REDACTED] due to her illness for [REDACTED] care by her sister; and that she did not intend to return to [REDACTED].

(3) Claimant's application was then being processed by the DHS on the basis that the claimant intended to remain in [REDACTED].

### 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.

BEM 220, page 1, states in pertinent part:

An individual is a [REDACTED] resident if either of the following apply:

- . He lives in [REDACTED], except for temporary absence, and intends to remain in [REDACTED] permanently or indefinitely....

The above evidence establishes that the claimant on date of application intended to remain in [REDACTED] (February 2, 2008); and that in the beginning of March 2008, she intended no longer to remain in [REDACTED] when she left the [REDACTED] for [REDACTED] for care by her sister. Therefore, if the claimant should be determined subsequently disabled, the duration could not exceed month of application, month after application, and three retroactive months before application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the beginning of March 2008 was when the claimant no longer intended to remain in [REDACTED].

Accordingly, Medicaid application denial is REVERSED, and processing of application is ORDERED.

NOTE: If disability should subsequently be determined then Medicaid eligibility terminates on February 28, 2008.

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

Date Signed: October 19, 2009

Date Mailed: October 19, 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.

WAS/tg

2009-11713/was

cc:

