

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: 2009-13065
Issue No: 2003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 17, 2009
Wayne 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 17, 2009.

ISSUE

Was minor child in the home over 18 no longer enrolled in school?

FINDINGS OF FACT

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

- (1) Negative action: proposed Medicaid termination on January 8, 2008 based on the only minor in the home being over 18, and not in school per PEM 211.
- (2) The DHS relied on hearsay evidence to prove that the minor was not enrolled in any five of the life skills facilities in January 2008.
- (3) The claimant testified under oath that the minor was enrolled in school.

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.

The burden of proof is on the agency to establish by the preponderance of the evidence of record that the claimant was no longer eligible for continuation of Medicaid. BEM 600.

BEM 600 provides for the claimant's right to cross-examine a witness, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence.

The school representative was not present at the hearing for cross-examination by the claimant. Therefore, the statement given to the agency is inadmissible.

Therefore, this ALJ is not persuaded by the evidence of record that the DHS has established that the minor child was not enrolled in school.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that it was not established that the minor child in the home over 18 was no longer enrolled in school.

Accordingly, proposed Medicaid determination is REVERSED.

/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

cc:

[REDACTED]