

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2009-22554
Issue No.: 6004
Case No.: [REDACTED]
Hearing Date: July 2, 2009
DHS County:

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

HEARING DECISION

The hearing in this matter was conducted by Administrative Law Judge Marlene Magyar on July 2, 2009, pursuant to MCL 400.9, MSA 16.409, MCL 400.37, and MSA 16.437, upon Petitioners' request for a hearing. Judge Magyar was unable to write the decision. The undersigned Administrative Law Judge has written this hearing decision after review of all evidence in the record including the tape recording of the actual hearing. Petitioners and Attorney [REDACTED] appeared and testified.

ISSUE

Is the Department of Human Services (Department) correct in denying Petitioners' request for extension of the adopted child's stay at a residential treatment facility under the Adoption Medical Subsidy Program?

FINDINGS OF FACT

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

1. Petitioners' adopted child [REDACTED] is a recipient of benefits under the Adoption Medical Subsidy Program.
2. The child was placed in an out-of-home residential treatment facility on February 28, 2004.
3. On July 22, 2008, a treatment program was established by the Department at a meeting with Petitioners and the residential treatment facility personnel in attendance. Several goals were established which required participation by Petitioners.

4. Petitioners did not fully participate in the treatment program goals.
5. The Department determined that the child would no longer be eligible for out-of-home placement after August 28, 2008, because of Petitioners' failure to participate.
6. On August 21, 2008, Petitioners requested continued eligibility for out-of-home placement for their child.
7. On September 12, 2008, the Department denied continued eligibility beyond September 28, 2008.
8. Petitioners requested a hearing contesting the denial of continued eligibility for out-of-home placement for the child under the Adoption Medical Subsidy Program.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

Adoption Medical Subsidy is intended to assist with paying for services related to the treatment of physical, mental, or emotional conditions certified by the Adoption Subsidy Program Office. State law makes it the payer of last resort (MCLA 400.115h). Parents retain responsibility for making treatment arrangements for their child, seeking prior approval for services when required, and making payment arrangements with providers. CFS 640. p1.

The Adoption Medical Subsidy program is intended to assist the adoptive parents with the cost of treating emotional or mental conditions that pre-existed the adoption of a child who had been in foster care in Michigan.

State law (MCL 400.115h) limits payment for treatment of emotional or mental conditions to outpatient treatment unless one of the following applies:

- The child was certified eligible for an adoption support subsidy.

- The Adoption Subsidy Program Office approved certification for the emotional or mental condition before the date of the final order of adoption.
- The child was placed in foster care as a result of a finding of abuse or neglect by a Michigan Family Court before the petition for adoption was filed.

Eligibility Timeframe

Short-term treatment outside the family home can be covered as a last resort when treatment goals are not being achieved in the family setting. Adoption medical subsidy policy limits the amount of coverage to six months. Approvals will not be granted for periods of more than six months and may be granted for lesser periods of time.

Placement Goals

The goals of placement outside the family home are to address the child's emotional and behavioral problems, strengthen the adoptive family, and to facilitate the reunification of the child with his/her adoptive family. In order to meet these goals, it is required that adoptive parents be actively engaged in the treatment of their child. Parental involvement may include participation in family therapy, family weekends, and home visits. CFS 640 p. 7.

Parents must:

- Provide information about past treatment efforts to the local worker.
- Participate in the child's treatment as required by the treatment plan.
- Make an application for SSI on behalf of the child.
- Cover the cost of clothing and arrange for payment of routine medical costs.

CFS 640 p. 10.

Adoption medical subsidy payment cannot be made for placements outside the family home in excess of six months unless an extension is granted by the Adoption Subsidy Program Office. Extensions are limited to situations where the child's emotional problems are so severe that placement outside the family home cannot be concluded in less than six months.

Before requesting an extension the local DHS worker or the supervising agency must determine that the:

- Adoptive parents participated in the treatment of the child as required by the treatment plan, and the
- Adoptive relationship is still viable.

Extension Request Criteria

In order to obtain an extension, the local DHS worker or the supervising agency must submit:

- A memo outlining the reasons that more time is required to achieve the treatment objectives and the progress of the child and the family.
- Documentation of the specific efforts that are being made to return the child to his/her family.
- Copies of the Initial and updated service plans from the placement facility, including the most recent service plan.
- Any additional documentation to support the need for continued placement outside the family home.
- A letter from the adoptive family which includes **all** of the following:
 - Their involvement in their child's treatment thus far.
 - Their planned involvement if their child remains out of the home.
 - Their proposed plan for their child when discharged from the program.

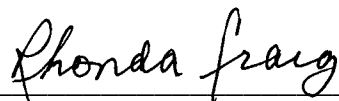
- How they intend to maintain the parent-child relationship with their child.
- Their request for continuation of the placement outside the family home.

The parents must agree to participate in the treatment plan as determined by the treatment facility. CFS 640, p.11-12.

In the present case, Petitioners are seeking continued eligibility for out-of-home care for their child. However, Petitioners have not met the eligibility criteria for continued eligibility. On July 2, 2008, a treatment plan was established which required participation by Petitioners. One such goal of the treatment plan required that one Petitioner be present, in person, at all family therapy sessions. Evidence indicated that out of eight sessions scheduled, one Petitioner was present on only three occasions. On three occasions, one Petitioner was present by telephone and twice Petitioners cancelled the sessions. Per policy cited above, the parent must participate in the treatment plans as a condition of continued eligibility. Since Petitioners did not comply with the treatment plan, the Department's action in denying continued eligibility for the child for out-of-home placement was in accordance with Departmental policy and law.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that Petitioners' child was no longer eligible for out-of-home-placement under to Adoption Medical Subsidy Program and that the Department's denial of continued benefits in this regard be and is hereby AFFIRMED.



Rhonda P. Craig
Administrative Law Judge Manager
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 17, 2011

Date Mailed: February 17, 2011

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found.

2009-22554/RPC

Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

RPC/pf

cc:

