

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: 200923879
Issue No: 2015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 14, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on October 14, 2009.

ISSUE

Was the claimant's Medicaid application properly denied for failing to return required verifications?

Did the Department properly fail to consider claimant for Group 2 Caretaker Medicaid when claimant was not part of a FIP group?

FINDINGS OF FACT

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

- (1) On December 16, 2008, claimant applied for Medicaid retroactive to September, 2008.

- (2) On January 29, 2009, the Department sent a DHS-3503, Verification Checklist to claimant's representative, [REDACTED], requesting forms required to evaluate claimant for disability based Medicaid.
- (3) [REDACTED] never returned these forms.
- (4) On March 3, 2009, [REDACTED] sent a letter to the Department stating that claimant was the caretaker of her minor grandchild because the parent of that child was paralyzed.
- (5) In this letter, [REDACTED] notified the Department that claimant did not wish to apply for Medicaid on the basis of disability, but was applying for Group 2 Caretaker Medicaid based upon claimant's caretaking of a dependent child.
- (6) The Department subsequently denied the application, allegedly for failing to provide verifications of disability.
- (7) The Department refused to consider claimant for Group 2 Caretaker Medicaid based upon the fact that claimant was not a mandatory FIP group member, and under FIP group composition rules, claimant would not be an eligible FIP group member.
- (8) The Department did not issue a denial notice to claimant's representative.
- (9) On April 7, 2009, claimant requested a hearing, alleging that a proper denial notice had never been issued, and requesting that the Department be forced to consider eligibility for Group 2 Caretaker Medicaid.
- (10) Claimant was represented at hearing by [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) and Reference Tables (RFT).

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. PEM 105.

The evidence of record shows that the Department requested information from claimant's representatives to determine eligibility for disability-based Medicaid, but this information was not returned by claimant's representatives. After consideration, the Administrative Law Judge decides this failure to return information is ultimately irrelevant to the case at hand.

On March 3, 2009, claimant's representatives made clear to the Department that they were applying for Group 2 Caretaker Relative Medicaid on behalf of the claimant. The Department refused to process or consider Group 2 Caretaker Relative Medicaid on the basis that claimant did not meet FIP group composition standards.

However, upon review of PEM 135, Group 2 Caretaker Relative Medicaid, the undersigned can find no part of the policy that states that the Medicaid in question follows FIP composition rules. In fact, there is an entire policy, PEM 211, which is dedicated to Medicaid group composition rules; the undersigned can find no policy that would require the Department to follow FIP group rules over the more relevant Medicaid group composition rules.

Therefore, the Department erred when not evaluating claimant under Medicaid rules and Group 2 Caretaker Relative Medicaid standards. While claimant may or may not qualify as a

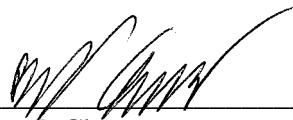
caretaker, claimant should be reviewed for caretaker status, at the very least. Claimant should not be disqualified from consideration for this category based upon FIP group composition rules which are not relevant with regard to Medicaid group composition, especially when, after reviewing eligibility standards under PEM 135, claimant appears to meet the non-financial eligibility rules under this item.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was incorrect when it failed to consider claimant for Group 2 Caretaker Relative Medicaid by using FIP group composition standards instead of Medicaid group composition standards.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to re-register claimant's MA application retroactive to September 2008, and consider claimant for all potential Medicaid categories, including Group 2 Caretaker Relative Medicaid, using relevant policy items found in PEM 211. Furthermore, claimant is to be considered for these categories using the information that was current at the time of the application, including the dependent child's program eligibility status.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/11/10

Date Mailed: 06/18/10

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 receipt date of the rehearing decision.

RJC/dj

cc:

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