

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: 2009-2979
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 4, 2009
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 June 4, 2009 in Saginaw. Claimant personally appeared and testified under oath.

The department was represented by Mary Kay Metzger (ES) and Christine Dowling (Foster Care Worker).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department correctly close claimant's MA-L case because claimant's minor son (D.H.) was removed by CPS pursuant to the order of the [REDACTED] — [REDACTED] [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) Claimant, her husband, and her minor son, [REDACTED] received MA-L benefits based on the presence of a minor child in claimant's home.

(2) On [REDACTED], order CPS to remove [REDACTED] from claimant's home.

(3) On [REDACTED] age 5, was removed from claimant's home and placed with a relative.

(4) The [REDACTED], which is under the supervision of the [REDACTED], is ongoing at this time. There is no date certain for DHS's return to claimant's home.

(5) On August 5, 2008, the department sent claimant a Notice of Case Action (DHS-1605) which states the following:

Effective 8-19-2008 (12:00 a.m.) your assistance will be changed as follows:

Your Medicaid (MA) will be cancelled for [REDACTED].

The reason for this action is:

A group member is no longer living with you. Therefore, his/her needs can no longer be considered when determining your eligibility. PEM Items 210, 211, 212, 214, 515, 554, 630, 640 and SM Item 703.

* * *

(6) On August 19, 2008, claimant's MA-L benefits were cancelled.

(7) On September 23, 2008, claimant requested a hearing.

(8) Claimant thinks her MA-L benefits should be continued because she expects to be reunited with [REDACTED] in the near future.

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 current agency policy, the person who has physical custody of a minor child is entitled to medical benefits for that child and medical benefits for herself. PEM 210 and 212.

The preponderance of the evidence of the record shows that the [REDACTED] was ordered by the [REDACTED] to remove minor child [REDACTED] from claimant's home. The removal occurred on July 3, 2008.

Since claimant's minor child, [REDACTED], was no longer in her home, the department closed claimant's MA-L benefits on August 19, 2008 pursuant to PEM 211.

Based on this analysis, the Administrative Law Judge concludes that the department correctly cancelled claimant's MA-L benefits because claimant's minor son, [REDACTED], no longer resides with her.

The Administrative Law Judge does not find any evidence of arbitrary or capricious action on behalf of the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly closed claimant's MA-L benefits because her minor son, [REDACTED], no longer resides with her.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/

Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 8, 2009

Date Mailed: June 8, 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.

JWS/tg

cc:

