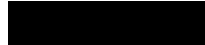


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-10238

Issue No.: 2015

Case No.:

Load No.:

Hearing Date:

July 20, 2009

Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 July 20, 2009. The claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or department) properly terminate claimant's Medical Assistance (MA)?

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 was a recipient of Family Independence Program (FIP)-related MA based upon the presence of claimant's daughter in her home.
- (2) On November 14, 2008, the department notified claimant that her MA would terminate on November 26, 2008 because her "child is age 18 or 19 and has completed high school."

- (3) On November 26, 2008, claimant's MA was terminated.
- (4) Later in the day, on November 26, 2008, claimant filed a hearing request to protest the department's negative action.
- (5) At the hearing, claimant acknowledged that at the time of termination her daughter was 19 and not attending school.
- (6) At the time of the hearing, claimant resided with her disabled husband, her 20 year old daughter, and her daughter's child.
- (7) Claimant's daughter is the primary care taker of her own child.

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).

Relevant policy in this matter is as follows:

Group 2 Care Taker Relatives

This is a FIP-Related Group 2 MA category.

MA is available to parents and other care taker relatives who meet the eligibility factors in this item....

A care taker relative is a person who meets all of the following requirements:....

- The person is:
 - The parent of the dependent child; or
 - The specified relative (other than the parent) who acts as parent for the dependent child....acts as a parent means to provide

physical care and/or supervision. PEM 135, pg 1.

A child is a dependent child when he meets all of the following conditions:....

- The child meets the following age or age and school attendance requirements:
 - He must be under age 18; or
 - He must be age 18 and a full-time student in a high school or in the equivalent level of vocational or technical training as defined in FIP policy in PEM 245.
 - He must be expected to complete is education or training program before age 19. PEM item 135, pg 2 and 3.

Medicaid Overview

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....

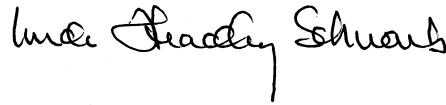
Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful. PEM item 105, pg 2.

In this matter, claimant is no longer the primary care taker of a dependent child. At the time of termination, claimant's daughter was 19 years old and not attending school. Claimant's daughter is the primary care taker of her own child. The department properly considered all other categories of MA eligibility and determined that claimant was no longer eligible for MA program benefits. See PEM item 105, pg 2, 3, and 4. Accordingly, the department's decision in this matter must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly terminated claimant's Medical Assistance.

Accordingly, the department's action in this matter is **HEREBY, AFFIRMED.**



Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/22/09

Date Mailed: 10/22/09

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 the Circuit 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.

LSS/jlg

cc:

