

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: 2009-115
2008-18807
Issue No: 2003; 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 18, 2009
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, June 18, 2009. The claimant personally appeared and testified on her own behalf.

ISSUE

Did the department properly determine that the claimant was not eligible for Medicaid (MA) under the caretaker relative category and that the claimant had excess income for Group 2 MA eligibility?

FINDINGS OF FACT

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

(1) The claimant was a recipient of MA under the caretaker relative category because she had a minor child.

(2) Subsequently, the claimant's child passed away.

(3) On April 24, 2008, the department caseworker sent the claimant a notice that effective May 6, 2008 that the claimant's MA coverage would be cancelled because she was no longer eligible for the caretaker relative category since her qualifying child had passed away.

(4) On April 30, 2008, the department received a hearing request from the claimant, contesting the department's negative action.

(5) On May 5, 2008, the department caseworker deleted the claimant's negative action pending her hearing.

(6) On August 27, 2008, the claimant notified the department that she was now employed for a staffing company called [REDACTED] where she provided four check stubs [REDACTED] [REDACTED] and a completed New Hire Employment Report, DHS-4635A. (Department Exhibit 3-6)

(7) On August 29, 2008, the department caseworker completed a MA budget using the claimant's earned income of [REDACTED] in earned income and calculated the eligibility for Group 2 FIP related MA (Department Exhibit 7-9):

- The claimant qualified for a \$90 work expense reduction resulting in net earnings of [REDACTED].
- The claimant had a protected income level for a group size of one within her shelter area of \$350.
- The claimant had a monthly excess income of [REDACTED] resulting from the claimant's [REDACTED] in net income minus her \$350 total needs.

(8) On August 29, 2008, the department caseworker sent the claimant a notice that she was not eligible for Group 2 MA because her countable income exceeded the limit.

(Department Exhibit 10)

(9) On September 2, 2008, the department received a hearing request from the claimant, contesting the department's negative action.

(10) Because of the timely hearing request, the negative action was again deleted pending the hearing.

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).

The department's policy manuals provide the following relevant policy statements and instructions for caseworkers:

MA GROUP COMPOSITION

DEPARTMENT POLICY

LIF

Group composition policy for Low-Income Families (LIF) is in PEM 110. Do not use the policy in this item to determine group composition for LIF. PEM, Item 211, p. 1.

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Use fiscal groups and, for SSI-related MA, Group 2 Persons Under Age 21 and Group 2 Caretaker Relative, asset groups to determine the financial eligibility of a person who requests MA and meets all the nonfinancial eligibility factors for an MA category.

Individual family members may be eligible under different MA categories. You must explore all categories for each person who requests MA. See “CHOICE OF CATEGORY” in PEM 105. PEM 211, p. 1.

DEFINITIONS

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

“**Child**” means an unmarried person under age 18.

“**Adult**” means a person who is married or age 18 or older. PEM, Item 211, p. 1.

RULES FOR GROUPS

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Determine the fiscal and asset groups separately for each person requesting MA. When referring to the group listings, remember:

- Only persons living with one another can be in the same group. See “**LIVING WITH.**”
- Certain persons cannot be fiscal or asset group members in SSI-related MA. See “**EXCLUDED PERSONS.**”
- There is NO asset test for Group 2 FIP-related MA and the Healthy Kids categories.
- **For all Group 2 FIP-related MA and Healthy Kids categories**, when a child lives with both parents who do not live with each other (e.g., child lives with his mother two weeks each month and his father the other two weeks), only one parent, the primary caretaker, is in the fiscal group. You must determine a **primary caretaker**. The primary caretaker is the parent who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when

averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made. Vacations and visitations with the absent parent do not interrupt primary caretaker status. See rules in PEM 255 concerning support from the other parent. See “Verification Sources” in this item:

- .. Joint physical custody occurs when parents alternate taking responsibility for the child’s day-to-day care and supervision. It may be included in a court order or may be an informal arrangement between parents. A child is considered to be living with only one parent in a joint custody arrangement. This **parent is the primary caretaker.**
- . **For all Group 2 FIP-related MA and Healthy Kids categories**, count a pregnant woman as at least two members. If twins **are verified**, count the woman as three, etc.
- . **For PEM, Item 125 and 126 categories only**, continue to count the woman as two (or three, etc.) for two calendar months following her pregnancy termination for each unborn not resulting in a live birth. PEM, Item 211, pp. 1-2.

FIP-Related Child

Group 2 FIP-Related MA and Healthy Kids

A **child’s fiscal group** is:

- . the child, **and**
- . the child’s parents.

See PEM 536 to determine budgetable income of the fiscal group. There is no asset test for Group 2 Pregnant Women and the Healthy Kids categories. PEM, Item 211, pp. 4-5.

In the instant case, the claimant was no longer eligible for MA caretaker relative because the claimant’s eligible child passed away. The claimant may have still been eligible for Group 2 MA based on her income from May 2008 to August 2008.

On August 27, 2008, the claimant provided verification that she was working and had earned income in the amount of [REDACTED] per month, which resulted in excess income for Group 2 MA of [REDACTED]. As a result, the department caseworker on August 29, 2008 sent the claimant a notice that effective September 10, 2008 that the claimant was not eligible for Group 2 MA.

The claimant was never eligible for Group 2 MA. The department appropriately pended the claimant's MA case to close on April 24, 2008 because the claimant was no longer eligible for the caretaker relative category since her qualifying child had passed away.

Therefore, the Administrative Law Judge finds that the department has established that it was acting in compliance with department policy when they made the determination that the claimant was no longer eligible for the MA caretaker relative category because the claimant's eligible child had passed away.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly closed the claimant's Group 2 MA caretaker relative category because the claimant's eligible child had passed away.

Accordingly, the department's decision is **AFFIRMED**.

/s/
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 28, 2009

Date Mailed: July 28, 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 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.

CGF/vmc

cc:

