

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: 2009-20640

Issue No: 2007

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 9, 2009

Lenawee 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, July 9, 2009. The claimant personally appeared and testified on her own behalf.

ISSUE

Did the department properly deny the claimant's application for Medical Assistance (MA) because the claimant is not aged, blind, disabled, under 21 years of age, or a parent/caretaker relative of a dependent child?

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 February 17, 2009, the claimant applied for MA assistance.

(2) On February 17, 2009, the department sent the claimant a notice that she was not eligible for Medicaid because she was not aged, blind, disabled, under 21 years of age, or a parent/caretaker relative of a dependent child. The children in question are on their father's case, and he has legal custody of the children. (Department Exhibit 1)

(3) On March 11, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(4) During the hearing, the claimant stated that she has the children more than their father does and that she needed assistance.

(5) During the hearing, the department caseworker stated that the claimant's children's father had legal custody and already had a MA case open that the claimant's children are on. The claimant only has supervised visitation with one of her children, which would make her ineligible for MA.

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).

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

In this case, the claimant applied for MA assistance for her and her children. The claimant' application was denied because the claimant's children are already on their father's MA case, and he has legal custody. Although the claimant stated that she has the children more than the father does, the claimant's children's father has legal custody and has an open MA case.

The department has adopted a (first) in-time principle (when a child spends time with both parents in separate household settings), which changed October 1, 2004. The parent who establishes the MA case first has the right to continue receiving MA for the child provided that the child is not absent from the parent's home for more than thirty (30) consecutive days. As noted above, an absence of less than thirty (30) days is considered a (temporary absence), and is not a basis for terminating an established MA case. PAM 135, Pages 1, 2 and PAM 210, Page 4.

As the result of department policy, there can only be one caretaker relative for the same dependent child. Since the claimant's children are already active on their father's MA case, he would have to give consent to have the claimant be eligible for MA. The department has established that it was acting in compliance with department policy when it denied the claimant's application for MA for herself and her children.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's MA application because the claimant's children were already active on their father's case.

Accordingly, the department's denial of the claimant's MA application is **AFFIRMED**.

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

Date Signed: July 30, 2009

Date Mailed: July 30, 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.

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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:

