

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: 2010-33555
Issue No: 2008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 13, 2010
Sanilac County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 April 13, 2010.

ISSUE

Was non compliance by DHS of notice to the claimant of how to cooperate with the removal of a child support sanction established?

FINDINGS OF FACT

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

- (1) Negative case action: MA application on April 21, 2009, was denied on April 21, 2009 based on a child support sanction per BEM 255.
- (2) On February 20, 2009, the DHS placed a support sanction on the claimants case.

(3) On April 21, 2009, the DHS had a 20 year policy of informing applicants that there application is denied based on a child support sanction and how to remove the sanction by cooperating with the support specialist.

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).

Facts above are undisputed.

BEM 255, pages 10 and 11, state:

Do all the following at the application review

- Inform the applicant that the disqualification will be imposed unless notice is received from the SS that the non cooperating client has cooperated.
- Encourage the applicant to cooperate with the SS and discuss with them the consequences of the non cooperation
- Promptly refer persons who indicate a willingness to cooperate to the SS (1-866-540-0008 or 1-866-661-0005) to reevaluate the individuals cooperation status.

The claimant's representative (L&S) offered no proofs to establish the DHS noncomplied with the policy above. To the contrary, the undisputed facts above show the DHS 20 year policy of notifying all applicants of how to remove a disqualification sanction.

Therefore, this ALJ is not persuaded by the preponderance of the evidence of record that the claimant has proven the DHS noncompliance with the policy above.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that a noncooperation by the DHS of notice to the claimant of how to cooperate with the removal of child support sanction was not established.

Accordingly, MA application denial is UPHELD.

/s/ _____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 12, 2010

Date Mailed: August 12, 2010

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.

WAS 

cc:

