

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2009-454
Issue No.: 6004
Case No.: [REDACTED]
Hearing Date: January 24, 2011
DHS County: Wayne (82-69)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Petitioner's request for a hearing. After due notice, a hearing was held January 24, 2011. Petitioner was not represented.

The record was left open to allow Petitioner additional time to submit additional documentation to support her case. To date, no additional information was received from either the Department of Human Services (Department) or Petitioner.

ISSUE

Did the Department properly process Petitioner's request for Medical Support Subsidy?

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 May 25, 2005, the Department issued a response to the request for tutoring expenses for [REDACTED]. This letter indicated that, in order to process, Petitioner would need to provide a copy of the IEP for the current school year.
2. On May 30, 2006, the Department issued a decision regarding [REDACTED] for [REDACTED] for services rendered June 2005 through March 2006. This decision indicated that Petitioner had 90 days to appeal the decision.
3. October 2, 2006, the Department issued a decision regarding [REDACTED] for [REDACTED] for services rendered March 2005

through August 2006. This decision indicated that Petitioner had 90 days to appeal the decision.

4. October 2, 2006, the Department issued a decision regarding [REDACTED] for [REDACTED] for services rendered June 2005 through June 2006. This decision indicated that Petitioner had 90 days to appeal the decision.
5. On July 2, 2007, Petitioner requested a hearing stating the following: "Dear Sirs I'm requesting a Due Process Hearing to address the refusal of the Adoption Subsidy Dept to pay bills for services covered under the medical subsidy for [REDACTED] and [REDACTED] and also refusal to process requests for said services in a timely manner. Yours truly [REDACTED]. 06-20-2007 faxed to [REDACTED]."
6. On July 3, 2007, the Department issued a response to the request for tutoring expenses for [REDACTED]. This letter indicated that, in order to process, Petitioner would need to provide a copy of the IEP for the current school year.
7. On September 27, 2008, the Department issued a decision regarding [REDACTED] for [REDACTED] for services rendered November 2005 through May 2007. This also included a denial of transportation expenses. The decision indicated that Petitioner had 90 days to appeal the decision.
8. On September 27, 2008, the Department issued a decision regarding [REDACTED] for [REDACTED] for services rendered June 2005 through May 2007. This decision also included a denial of transportation expenses as well as a denial for tutoring expenses. This decision indicated that Petitioner had 90 days to appeal the decision.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115 *et seq.* and is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

The State of Michigan administers three adoption subsidy programs: Adoption Support Subsidy; Adoption Medical Subsidy and Nonrecurring Adoption Expenses Reimbursement. The purpose of Adoption Support and Adoption Medical Subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs, as defined by MCL 400.115f. The purpose of the Nonrecurring Adoption Expenses Reimbursement program is to assist in paying the out-of-pocket expenses of adoption of special needs children. Based on each individual child's situation and

needs, one or more of the subsidy benefits may be available to support their adoption. Some children do not qualify for any subsidy program based on their individual circumstances. Subsidy is available without respect to the income of the adoptive parent(s). The Adoption Support Subsidy is intended to assist with the payment of expenses of caring for and raising the child. It is not intended to meet all of the costs of raising the child; rather, it is a money grant program which provides assistance to adoptive parents in certain defined and limited ways. Adoptive parents retain financial and decision-making responsibility and authority for their child. A support subsidy is a monthly payment to the parent or parents of an eligible adopted child. This payment provides assistance to the parent or parents of the adopted child and eligibility is determined before the Petition for Adoption is filed. The child-placing agency, the Department of Human Services or the Department of Community Health unit that has responsibility under Michigan's law for the care and supervision of the child is responsible for submitting the Application for Support Subsidy. CFS Manual Item 100.

Under Bridges Administrative Manual Item 600, clients have the right to contest any Department decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The Department provides an Administrative Hearing to review the decision and determine if it is appropriate. Department policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the Department receives a hearing request and continue through the day of the hearing.

In the present case, Petitioner's hearing request stated the following: Dear Sirs I'm requesting a Due Process Hearing to address the refusal of the Adoption Subsidy Dept to pay bills for services covered under the medical subsidy for [REDACTED] and [REDACTED] and also refusal to process requests for said services in a timely manner. Yours truly [REDACTED]. 06-20-2007 faxed to [REDACTED].” As indicated in her hearing request dated July 2, 2007, Petitioner was appealing the lack of processing and the timeliness of the Department's effort to process. At the hearing, the Department presented communications sent from the Department to Petitioner regarding requests for medical subsidy assistance. Petitioner asserts the Department failed to process her requests timely according to her hearing request. This Administrative Law Judge's jurisdiction is constrained to exactly what Petitioner requested and cannot consider subsequent actions.

In the instant case, the Department did process requests for medical subsidy expenses on two different occasions for both [REDACTED] and [REDACTED]. These service dates were addressed by Exhibits I, L and M respectively. In each of these decisions, the Department indicated Petitioner had 90 days to request a hearing if she disagreed with these decisions. However, going back to the hearing request, Petitioner is not appealing those decisions or, for that matter, the September 2008 decision; instead, she appealed the lack of decisions and/or the timeliness of the decisions.

After reviewing the evidence given for consideration, this Administrative Law Judge concludes that, while the Department may have been slow to process the requests,

these requests were subsequently processed on September 27, 2008. Since the Department has since processed Petitioner's request, no other remedy is available for this Administrative Law Judge to order.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Petitioner's request for hearing is hereby DISMISSED as this Administrative Law Judge has no authority to order any additional remedy.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 19, 2011

Date Mailed: April 20, 2011

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

JWO/pf

cc:

