

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: 2009-5191

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 12, 2009

Calhoun 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 Tuesday, May 12, 2009. The claimant was not present, but was represented by her attorney, [REDACTED]

ISSUE

Did the department properly determine that the claimant was not eligible for retroactive Medical Assistance (retroactive 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) On February 28, 2008, [REDACTED], applied for retroactive Medical Assistance for the claimant. The claimant had a baby on [REDACTED], which is three months after the application date.

(2) On February 28, 2008, the claimant did not have any dependent children living with her because they had been removed previously by CPS. As a result, there was no eligibility for Group 2 Caretaker Relative MA and open enrollment was closed for AMP. The department caseworker denied the claimant's request for Medical Assistance.

(3) On March 7, 2008, the department caseworker sent the claimant a notice that there were no dependent children living with her and the claimant was in child support sanction, which resulted in a denial of retroactive MA. (Department Exhibit A)

(4) On June 6, 2008, the department received a hearing request from the claimant's authorized representative contesting the department's negative action.

(5) On June 3, 2009, the MA Policy Unit submitted a clarification that a person is eligible for one, two, or all three months even if not currently eligible based on a retroactive MA application. The fact that the claimant was not currently eligible for any MA category does not permit the department to disregard determinant eligibility for the retro months.

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 program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

MA Member Disqualification

Exception: Do **not** begin or continue a disqualification for failure to cooperate when a pregnant woman meets all other eligibility factors. Apply this exception:

- . During the pregnancy, **and**
- . For two (2) calendar months after the month the pregnancy ends. PEM 255, p. 10.

Healthy Kids Retro MA Eligibility Requirements

Determine eligibility for the application month first. A client who is eligible for Healthy Kids (PEM 125, 129 and 131) for the application month is eligible for retro MA when all of the following conditions are met. This applies **even if** the retro MA question on the application is not answered or is answered no.

- . For a pregnant woman, the woman was pregnant or under age 19 for the retro MA month.

In the instant case, the claimant was pregnant and in noncompliance with child support. On [REDACTED], the claimant had a baby [REDACTED] applied for retroactive MA on March 28, 2008. The claimant had all the children in the home removed before the application was filed on February 28, 2008.

The department stated that because the claimant was noncompliant with child support and she had no kids the month that she applied, that the claimant was not eligible for MA benefits. However, the MA Policy Unit stated on June 3, 2009, that if a claimant was eligible for retro months that, even if she was not currently eligible for MA does not permit the department to disregard determining eligibility for the retro months. Therefore, the department has not

established that it was acting in compliance with department policy by determining that the claimant was not eligible for retroactive MA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not appropriately deny the claimant's retroactive Medical Assistance benefits because she was not currently eligible for MA.

Accordingly, the department's decision is **REVERSED** and the department is ordered to determine retroactive Medical Assistance benefits for the months of November 2007 based on the application filed on February 28, 2008 to determine if the claimant meets the financial and other eligibility requirements for Healthy Kids Retro MA.

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

Date Signed: June 30, 2009

Date Mailed: June 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:

