

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.: 2010-12733
Issue No.: 6004
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 7, 2010
DHS County: Wayne

ADMINISTRATIVE LAW JUDGE: Rhonda Craig

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Petitioner's for a hearing. After due notice, a telephone hearing was held on October 7, 2010. Petitioner appeared and testified.

ISSUE

Did the Department of Human Services (DHS) properly fail to evaluate Adoption Medical Subsidy eligibility for Petitioner effective the day of the application for Adoption 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. Petitioner applied for an Adoption Support Subsidy on December 10, 2007. At that time, Petitioner inquired about the payment of medical expenses.
2. The adoption was finalized on [REDACTED].
3. Petitioner was approved for an Adoption Support Subsidy effective March 11, 2008.
4. In March 2008, Petitioner again requested medical assistance for the child and information on the procedures necessary to have medical bills paid.
5. In October 2008, Petitioner submitted medical bills to DHS for payment.

6. DHS denied payment because Petitioner had not applied for a Medical Subsidy.
7. In April 2009, DHS sent Petitioner an application for Adoption Medical Subsidy, which was approved effective April 10, 2009.
8. Petitioner requested a hearing contesting DHS' failure to provide Adoption Medical Subsidy effective February 14, 2008.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by DHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* DHS 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 policy that applies in this instance is as follows:

The State of Michigan administers three Adoption Subsidy programs:

Adoption Support Subsidy.
Adoption Medical Subsidy.
Nonrecurring Adoption Expenses Reimbursement.

The purpose of the Adoption Support Subsidy program and the Adoption Medical Subsidy program 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 Expense 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). CFS 100. The Adoption Medical Subsidy is intended to assist in paying for medical costs for adopted children who have an identified physical, mental, or emotional condition which existed, or the cause of which existed, before the adoption petition was filed. It does not

cover routine expenses or typical childhood illnesses. Eligibility may be determined before and/or after the adoption.

The application procedure for Adoption Medical Subsidy depends on whether the child's adoption is pending or the child is already placed in adoption. Procedures are as follows:

For children whose adoption is pending, the child's adoption worker shall submit a DHS-1341M, Adoption Medical Subsidy Certification Request/Disposition and required documentation.

For children already placed in adoption, the adoptive parent(s) must submit a DHS-1341A, Request for Medical Subsidy for An Adopted Child. The adoption worker will assist the adoptive parent(s) by:

- a. Providing the form DHS-1341A.
- b. Helping the parent(s) to complete the form.
- c. Informing the parent(s) that the effective date of the agreement will be the date the DHS-1341A, Request for Medical Subsidy for an Adopted Child, is received by the adoption subsidy program office if the required documentation is received by the program office within 90 days of that date.

The application will be denied if documentation is not received within 90 days. CFS 400.

Once a child is certified eligible for subsidy, the adoption worker must inform prospective adoptive parents of the availability of subsidy benefits for the child. CFS 100 p. 2.

Department policy which covers all programs indicates that the department must inform people who inquire about:

The DHS programs available, including domestic violence comprehensive services.

Their right to apply.

Provide specific eligibility information on any program in which they are interested. See RFF about publications that can be used for this purpose. PAM 105, p. 9.

A request for assistance may be in person, by mail, telephone or an application can be obtained on the Internet. The requester has the right to receive the appropriate application form. PAM 110 p. 1.

For a request in person, the local office must:

Give the requester an application the same day; and

Explain his right to file the application (or DHS-1171-F, Filing Document, with the minimum information) that day and encourage him to do so; and

Explain that the application date might affect the amount of benefits.

Give the client a Publication 859, Domestic Violence Informational Brochure.

Encourage the person to complete the entire application that day. Persons who cannot complete the entire application should complete the DHS-1171-F to protect their application date. PAM 105 lists the minimum information to file an application.

For a request by letter or telephone, mail the application by the end of the next workday. If the application is not returned, the requester must be contacted according to local office procedures. PAM 110.

In the present case, when Petitioner applied for the Adoption Support Subsidy, she requested information regarding the payment of medical expenses for her child. At that time, according to the aforementioned policy, the DHS representative should have provided her with an Adoption Medical Subsidy application. Petitioner again requested information on how to get the medical bills paid when she called and left a message for a DHS representative in March 2008. Here again, an Adoption Medical Subsidy application should have been sent to Petitioner in accordance with policy cited above. DHS failed to follow policy in providing the application in a timely manner. Therefore, Petitioner's eligibility for an Adoption Medical Subsidy should be evaluated as a December 10, 2007, application. If found eligible, Petitioner should be granted Adoption

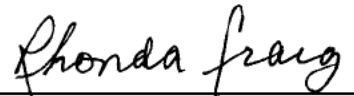
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Medical Subsidy benefits retroactive to March 11, 2008 (the date eligibility was established for the Adoption Support Subsidy).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS erred in failing to provide Petitioner with an Adoption Medical Subsidy application and in failing to evaluate eligibility retroactive to December 10, 2007.

IT IS ORDERED that DHS evaluate Petitioner's eligibility under the Adoption Medical Subsidy program as if she had applied on December 10, 2007, and, if she is found eligible, provide Adoption Medical Subsidy benefits retroactive to March 11, 2008, in accordance with this opinion.



Rhonda Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 12, 2010

Date Mailed: October 12, 2010

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.

RC/pf

cc:

