STATE OF MICHIGAN

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

IN THE MATTER OF:



Reg No. Issue No. Case No. Load No.

Hearing Date:

201024143

1031

July 15, 2010

Iosco County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the c laimant's request for a hearing. After due notice, a telephone hearing was held on July 15, 2010. The claimant appeared and testified.

<u>ISSUE</u>

Did the department of Human Services (t he department) properly cancel claimant's Medical Assistance (MA) because claimant was no longer considered a caretaker of a dependent child and didn it meet the policy requirem ents for any other Family Independence Program or Medical Assistance programs?

FINDINGS OF FACT

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

- (1) Claimant was receiv ing Medic al Assistance benefits based upon his receipt of fin Family Independence Program (FIP) benefits.
- (2) The claimant's son graduated from high school in June 2009, and had already turned 18.
- (3) The department caseworker determined that claimant was no longer eligible to receive the Family Independence Program because his child was 18 and proposed to cancel claimant's Family Independence Program and Medical Assistance benefits.

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- (4) On December 3, 2009, the department caseworker sent claimant notice that his Medical Assi stance and Family In dependence Program benefits were to be cancelled effective January 1, 2010.
- (5) On December 21, 2009, claimant f iled a request for a hearing to contest the department's negative action.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconc iliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM, the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity 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 Administ rative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Medical Assistance is available to parents and other caretaker relatives who meet the eligibility factors. All elig ibility factors must be met in the calendar month being tested. A caretaker relative is a person who meets all of the following requirements: except for temporary absences the person lives with a dependent child and the person is the parent of the dependent child with a specified relative other than the parent who acts a parent for the dependent child. BEM, Item 135, p. 1.

A child is a dependent child when he meets all of the following conditions: the child is born. The child meets the family independence program eligibility factors. The child is a resident using Medical Ass istance policy and BEM 220, and the child must be under age 18 or must be age 18 and a full time st udent in a hi gh school or in the equivalent level of vocational or technical training as defined in the Family Independence Program policy in BEM, Item 245. He must be expected to comp lete his education or training program before age 19 and the child is a Family Independence Program recipient. BEM, Item 135, p. 3.

In the instant case, the claimant's son grad uated from high school in June 2009, and at that time the claimant was no longer eligib le to receive Family Independenc e Program

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benefits and Group 2 M edical Assistance because he wa s no longer co nsidered a caretaker of a dependent child and didn't meet the policy requirement for Family Independence Program or Medical Assistance programs as a caretaker of a dependent child. The department did accept an application pending for Medical Assistance for the disabled and for State Disability Assistance. In the instant case, the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant no longer met the cr iteria for a caretaker relative and therefore his F Independence Program and Medical Ass istance benefits should have been cancelle d effective June 2009, when the child gradua ted from high school and was already 18 years of age. The over issuance indicates that the over issuance period should be from July 1, 2009 forward. Based upon department error because the department did not act timely in closing the Family Independence Program case when the claimant's son graduated from high school and was 18 years old in J une 2009. Claimant received an over issuance of benefits from July 2009 through December 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the department has established by the necessary evidence on the record and a preponderance of the record that it was acting in compliance with department policy when it proposed to cancel claimant's Family Independence Program benefits and caretaker relative Medical Assistance benefits based upon it's determination that claimant's son had gradulated from high school and the claimant was no longer eligible for Family Independence Program and Medical Assistance benefits because he was no longer considered the caretaker of a dependent child and didnown it meet the policy requirements for the Family Independence Program or Medical Assistance programs of the caretaker of a dependent child.

Accordingly, the department's decision is AFFIRMED.

| | <u>/s/</u> |
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| | Landis Y. Lain |
| | Administrative Law Judge |
| | For Ismael Ahmed, Director |
| | Department of Human Services |
| Date Signed: July 28, 2010 | |
| Date Mailed: July 29, 2010 | |

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<u>NOTICE:</u> 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 Hear ings will not orde rarehearing 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 mailing of the Decision and Order or, if a ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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