

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.: 2010-6056
Issue No.: 2003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 21, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a hearing was conducted from Detroit, Michigan on Wednesday, April 21, 2010. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department. [REDACTED] observed the proceedings.

ISSUE

Whether the Department properly terminated the Claimant's Medical Assistance ("MA") benefits?

FINDINGS OF FACT

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

1. The Claimant was a MA recipient.
2. On June 30, 2009, the Department pended the Claimant's MA case for closure due to the Claimant's children reportedly having moved from the Claimant's home. (Exhibit 1)

3. On July 9, 2009, the Department received a letter purportedly from the mother of the Claimant's children stating that she had moved from the Claimant's home with the children. (Exhibit 2)
4. On July 10, 2009, the Department received the Claimant's timely written request for hearing protesting the proposed action stating that he continues to provide for the children and the mother. (Exhibit 1)
5. Despite the timely hearing request, the Claimant's benefits terminated.

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, formerly known as the Family Independence Agency, 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 goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105 Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP-related or SSI-related. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent

children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP-related categories. *Id.*

MA is available to parents and other caretaker relatives who meet certain criteria. PEM
135 A caretaker relative is a person who (except for temporary absences) lives with a dependent child, is the parent of the dependent child, or a specified relative who acts as parent for the dependent child. *Id.* In general, a child can have only one caretaker relative thus if an individual is a MA applicant or recipient based on being a caretaker relative, no other person can apply for or receive MA based on being a caretaker relative for the same dependent child. Living together or living with others means sharing a home where family member usually sleep except for temporary absences. *Id.* A child is considered to be living with only one parent in a joint custody (formal or informal) arrangement. *Id.* The primary caretaker is the person who provides the home where the child sleeps more than half of the days in a month and is responsible for the child's day-to-day care and supervision. *Id.* When parenting time is disputed or questionable, absent a court order, each parent is provided an opportunity to present evidence of their claim. *Id.* The client's statements regarding relationship, primary caretaker, presence in the home, and school attendance for the dependent child(ren) is acceptable verification. *Id.* Other sources include, but not limited to, statements from at least two individuals who do not live with the group but have direct knowledge of the living arrangement, house call, school records indicating who enrolled the child in school, emergency contact person listed, who arranges transportation to/from school, day care arrangements, medical records which show where the child lives and who generally takes the child to medical appointments, etc. *Id.*

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130 The client must obtain the required verification,

however, the Department must assist if needed and/or requested. *Id.* If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. *Id.* Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. *Id.* If a client cannot provide the verification, despite reasonable effort, an extension should be granted up to three times. *Id.* A negative action notice is sent when the client refuses to provide a verification or the time period given has elapsed. *Id.*

In the record presented, the Department pended the Claimant's case for closure reportedly based upon a conversation with the mother of the Claimant's children stating that she no longer resides with the Claimant and that the children live with her. During the negative action period, contradictory statements were received relating to where the children reside and who is responsible for the children's day-to-day activities. Despite the inconsistencies, no further investigation was done nor was the negative action deleted in light of the timely hearing request. Based on the foregoing, it is found that the Department failed to establish it acted in accordance with department policy when it terminated the Claimant's MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's actions are not upheld.

Accordingly, it is ORDERED:

1. The Department's MA termination is REVERSED.
2. The Department shall reopen the Claimant's case back to the date of closure and supplement the Claimant for lost benefits (if any) that he was entitled to receive if otherwise eligible and qualified.

3. The Department shall make a determination of which parent is the primary caretaker, allowing both sides to present evidence of their claim, in accordance with policy.
4. The Department shall notify the Claimant in writing of the determination in accordance with policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/10/2010

Date Mailed: 5/10/2010

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.

CMM/jlg

cc:

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