

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: 2010-9062
Issue No: 2003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 21, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 January 21, 2010. Claimant was represented by [REDACTED].

ISSUE

Whether the Department of Human Services (department) properly determined claimant's eligibility for Medical Assistance (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) June 17, 2009, claimant applied for MA as a caretaker relative. The department denied the application that same date. Hearing Summary (DHS-3050) indicates that the only dependent child's birth date is [REDACTED] and he graduated high school on [REDACTED] having turned 19 three days earlier. Hearing Summary, 10-1-09.

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).

Department manuals provide the following policy statements and instructions for workers: A caretaker relative is a person who meets all the following requirements:

- Except for temporary absences, the person lives with a dependent child.
- The person is:
 - The parent of the dependent child or
 - The specified relative other than a parent who acts as a parent for the dependent child.
- The person is not participating in a strike; and if the person lives with his spouse, the spouse is not participating in a strike.

A child is a dependent child when he meets all the following conditions:

- The child is born
- The child meets the eligibility factors regarding Social Security numbers, citizenship/alien status, strikers, and pursuit of benefits.
- The child is a resident.

- The child meets the following age or age in school attendance requirement:
 - He must be under age 18 or
 - He must be age 18 and a full time student in a high school or equivalent level of vocational or technical training as defined in FIP policy BEM 245. He must be expected to complete his educational or training program before age 19.
- Bridges Eligibility Manual (BEM 135; 42 CFR 435.310, .510; Deficit Reduction Act of 2005.

In this case, claimant's dependent child was age 18 and enrolled full time in high school. He graduated high school three days following the date he turned age 19. The department presented no evidence to establish claimant's dependent child completed his high school education. Depending on common knowledge, ordinarily a person must complete all the educational requirements prior to graduation. Accordingly, a preponderance of the evidence establishes that claimant's child met the definition of dependent child during May and June 2009. Therefore, the department has not met its burden of proof and its action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly determine claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's financial eligibility for Medical Assistance for the months of May and June 2009 in compliance with department policy and this Decision and Order.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 19, 2010

Date Mailed: March 24, 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.

JAB/db

cc:

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