

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: 2010-20383  
Issue No: 2024  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 15, 2010  
Presque Isle County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 September 15, 2010.

ISSUE

Was discontinuation of "primary caretaker" established?

FINDINGS OF FACT

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

- (1) Negative case action: MA termination on January 29, 2010 based on issue above per BEM 211.
- (2) The DHS had no proofs that the claimants child(s) sleeps more than half the days in a month, when averaged over a twelve month period.

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).

Facts above are undisputed.

BEM 211, page 2, states in pertinent part:

The primary caretaker is the parent who is primarily responsible for the child's day-to-day daycare and supervision in the home where the child sleeps more than half the days in a month, when average over a twelve month period.

Based on the undisputed facts above, discontinuation of "primary care taker" was not established.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that discontinuation of "primary care taker" was not established.

Accordingly, MA termination is REVERSED, and reinstatement of case within 10 work days ORDERED.

/s/  
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William A. Sundquist  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: September 23, 2010

Date Mailed: September 27, 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.

WAS/ [REDACTED]

cc: [REDACTED]