

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No:

201041332

Issue No:

2024

[REDACTED]

[REDACTED]

Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held. Claimant did not appear. Claimant was represented by [REDACTED] hearing representative for [REDACTED]

ISSUE

Did the DHS properly deny claimant's MA application based on caretaker relative for June and July 2009?

FINDINGS OF FACT

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

1. On March 17, 2010, claimant's representative—Advomas requested an administrative hearing for the father in the purported group herein, hereinafter claimant. The hearing request stated that an MSA 2565 was filed and claimant should have been approved MA based upon caretaker relative.
2. On June 10, 2009, claimant's spouse applied for FAP, Medicaid, and cash assistance. At interview, claimant's wife indicated that claimant stayed in the home once in a while and that he did not reside in the home per 1171 dated June 10, 2009.

3. The department subsequently opened claimant's spouse's case for MA and FAP benefits listing claimant's spouse and the dependent child only.
4. Claimant's spouse indicated the claimant did not live in the home; the information that he stayed there "once in a while" did not meet temporary absence policy requirements. After case openings, claimant's spouse never contacted the department to request inclusion of claimant.
5. A 7309 application from claimant listed an address different from the spouse.
6. On July 30, 2009, claimant's spouse turned in a 1171 stating in part "...I filled out a new form because my husband and I separated and am separated from is currently unemployed and I am not receiving any cash at all..."
7. The department's evidence included child support payments that claimant paid to his spouse in June, July, August, September, October, November, December, 2009.
8. The department's witnesses were credible. Claimant did not appear and was not available for testimony and/or cross-examination.

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 BRIDGES Administrative Manual (BAM), the BRIDGES Eligibility Manual (BEM) and the BRIDGES Reference Manual (BRM).

Applicable policy and procedure to the case herein is found primarily in BEM Item 211. That policy states on page 1: "Only persons living with one another can be in the same group."

In this case, credible and substantial evidence on the record indicates that for the months of June and July, 2009 substantial and credible evidence under the preponderance of evidence burden indicates that claimant was not a member of the household with the dependent child. In order for claimant to receive caretaker relative there must be a dependent child. This Administrative Law Judge finds the department's evidence is credible and the department's evidence to meet the preponderance of burden standard.

It is noted that claimant failed to appear for the administrative hearing. Claimant was not available for testimony and/or cross-examination. The department's denial is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial actions are UPHELD.

/S/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 24, 2011

Date Mailed: May 24, 2011

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 mailing 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.

JGS/db

cc:

