

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

IN THE MATTER OF:



Reg. No: 2010-47258
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: October 6, 2010
Bay County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a telephone hearing was held on 10/6/10.

ISSUE

Did the DHS properly propose to close claimant's spouse's Caretaker relative MA on the grounds that he is a stepfather/specified relative?

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 is the biological parent/mother of a dependent child in the household.
2. Claimant is married. Claimant's spouse is a stepparent to claimant's dependent child.
3. Claimant and her spouse were residents in another county for approximately 6 years. Just prior to the proposed negative action herein, claimant and her family moved to Bay County.
4. At all relevant times prior to the action herein, claimant and her spouse in the other county were classified as caretaker relative and both eligible for caretaker relative as a MA.

5. On 6/7/10, the DHS issued a notice to claimant's husband informing him that effective 6/18/10 he would be removed from the caretaker relative MA and his MA would close.
6. Claimant's spouse is a stepparent and classified under DHS Policy and Procedure as a "specified relative."
7. On 6/14/10, claimant filed a timely hearing request. The Department reinstated the action pending the outcome of the hearing. Benefits continue.

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).

Applicable policy and procedure to the case hearing is found primarily in BEM Item 135-Group 2 caretaker relative. Policy found in BEM Item 135 specifically identifies a specified relative as including a number of types of relatives, which includes stepparents. Thus, claimant is defined as a stepparent under BEM Item 135 Group 2 caretaker relative policy.

BEM Item 135 specifically states that a child can only have one caretaker relative unless both parents live in the home. Where both parents do not live in the household, as is the case herein, only one person can act as a parent. Policy specifically states:

... when a child lives with both parents, both parents may be caretaker relatives.

Occasionally, a specified relative (other than a parent) who claims to act as a parent for the dependent child and the child's parent both live with the child. Client's statement regarding who has acts as a parent must be accepted. If both the parent and the other specified relative claim to act as parent, assume the parent is the caretaker relative. When only the other specified relative claims to act as parent(s), both the other specified relative and the parent may be caretaker relative.

Except as explained in the 2 preceding paragraphs, a child can only have one caretaker relative. This means that if a

person is an 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.” BEM Item 135, pages 1 &2.

Under the above cited authority, claimant’s spouse is a stepparent and thus, not eligible for caretaker relative MA. The Department’s actions were consistent with its policy and procedure and thus, must be upheld.

DECISION AND ORDER

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

Accordingly, the Department’s proposed closure is hereby upheld.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/22/10

Date Mailed: 10/25/10

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.

2010-47258/js

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 mailing date of the rehearing decision.

JS/le

cc:

