

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-8532
Issue No: 2006; 2009
Case No: [REDACTED]
Load No:
Hearing Date:
January 7, 2010
Barry County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 three-way telephone hearing was held on January 7, 2010, in Hastings. Claimant failed to appear. Claimant was represented by [REDACTED].

The department was represented by Chris Kersjes (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

(1) Did the department properly deny MA-P coverage for [REDACTED] because he did not meet the MA-P eligibility requirements (he is not disabled)?

[REDACTED] stipulated at the hearing that claimant was not eligible for MA-P.)

(2) Did the department properly deny Care-Taker Relative MA for [REDACTED] because he did not verify that he had legal and physical custody of [REDACTED] in May 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) DHS records show minor child, [REDACTED], was receiving Healthy

Kids MA under [REDACTED], who lives at [REDACTED], [REDACTED], for an unknown period.

- (2) On February 9, 2009, the department requested verification of [REDACTED]'s custody as follows:

* * *

Dear [REDACTED]:

I am writing to you in regards to the note I received 2/9/09 requesting to add [REDACTED] to your case, since she is now living with you. I find that she is active on another's case. I will need verification that you have custody of her. Or, the other party would need to drop her from their case. Please let me know when this is done or provide the court order stating that you have child more than 51 percent of the time.

If you have further questions, please feel free to call me at 269-948-3256.

- (3) [REDACTED] did not answer the February 9, 2009 letter from the caseworker.
- (4) Claimant, [REDACTED], did not answer the February 9, 2009 letter from the caseworker.
- (5) On May 29, 2009, [REDACTED], on behalf of [REDACTED], filed an application for MA-Care-Taker-Relative benefits with Barry County DHS. [REDACTED] alleged in his application (DHS-1171) that he was [REDACTED] caretaker relative.
- (6) On May 29, 2009, DHS records show [REDACTED] was receiving MA-Healthy Kids benefits on [REDACTED] case. [REDACTED] resided at [REDACTED].
- (7) On June 3, 2009, the department sent a DHS-3503, to claimant requesting verification of the pertinent eligibility factors. Claimant did not respond.
- (8) The caseworker processed claimant's MA-Care-Taker-Relative application as an MA-P disability case, because claimant did not establish that he was [REDACTED] caretaker relative.
- (9) At the hearing, [REDACTED] stipulated that claimant was not eligible for MA-P.

- (10) [REDACTED] thinks that the department did not make a good faith effort to determine claimant's eligibility for MA-Caretaker relative because the department did not follow the policy in BEM 135. BEM 135, according to [REDACTED], requires the department to develop claimant's eligibility based solely on the application claimant filed on May 25, 2009.
- (11) The Barry DHS thinks that the Calhoun DHS records are controlling on the issue of [REDACTED] residency and must be considered during claimant's eligibility determination. Barry DHS relied on Calhoun DHS records which showed that [REDACTED] was living with and receiving MA-Healthy Kids benefits under [REDACTED] case in [REDACTED]. Therefore, a *prima facie* case of claimant's noneligibility for Healthy Kids was established. Based on the information regarding [REDACTED] living arrangement, the department was not required to make additional inquiries.
- (12) The department's Hearing Summary, dated October 5, 2009, reads in part:

* * *

The reason [REDACTED] was not eligible for G2C MA-P/Caretaker Relative is as follows:

On 2/9/09 [REDACTED] left a message with worker [REDACTED] that [REDACTED] was living with [REDACTED] and herself. On the same day, the worker sent [REDACTED] a letter notifying her that we could not add the child to their case without proof of custody or proof that the other party, who was already receiving Medicaid for the child, (had) removed her from their case. As no verifications were received, [REDACTED] was not eligible for Medicaid (Caretaker Relative) for the retro month of March 2009. In fact, verification that the child was no longer receiving Medicaid was not verified until September 15, 2009, at review. The child was removed from her mother's case on August 18, 2009.

* * *

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).

The following policies apply to issues raised by claimant:

VERIFICATIONS

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PAM 702. Also, PAM 105, page 8 and PAM 260 and 261.

Current department policy requires applicants to cooperate with the local office in determining initial and ongoing MA-P eligibility. This includes the completion of necessary forms and a face-to-face meeting when requested. PAM 105.

Cooperation also includes a requirement that recipients provide verification of their disability, when requesting MA-P benefits. PEM 210, 212, 220, 260 and 261.

The preponderance of the evidence in the record shows that claimant failed to show, in May 2009, that [REDACTED] was living in his household, and not in the household of [REDACTED] as verified on department records from Calhoun County.

Since claimant did not verify, in May 2009, that [REDACTED] was living in his household, and that [REDACTED] had removed Michaela from her household (for DHS eligibility purposes), the caseworker correctly denied claimant's MA-Health Kids application on June 16, 2009.

Claimant had an affirmative burden to show that he had legal and physical custody of [REDACTED] on May 29, 2009. Claimant did not meet his burden of proof.

The department has established, by the competent, material and substantial evidence on the record that it acted in compliance with department policy when it decided that claimant was not eligible for MA-Health Kids. Furthermore, claimant did not meet his burden of proof to show that the department's denial of his MA-Health Kids application was reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's MA-Health Kids application, due to claimant's failure to establish the residency of [REDACTED], as requested by the department.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____

Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 10, 2011

Date Mailed: June 13, 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 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.

JWS/tg

cc:

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