

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P. O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax (517) 334-9505

IN THE MATTER OF:

Docket No. 2011-22103 CMH
Case No. [REDACTED]

[REDACTED],
Appellant
_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon the Appellant's request for a hearing.

After due notice, a hearing was held on [REDACTED]. [REDACTED] Appellant's mother, appeared on behalf of the Appellant.

[REDACTED], represented the Department's agent, [REDACTED]. [REDACTED] appeared as a witness for the CMH.

ISSUE

Was it proper for the Appellant's Family Support Subsidy (FSS) to be suspended because financial documentation was missing?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary.
2. The Appellant resides with his mother in [REDACTED], Michigan.
3. [REDACTED] (CMH) is a Prepaid Inpatient Health Plan (PIHP) under contract with the Michigan Department of Community Health to provide Medicaid covered services to Medicaid beneficiaries who reside in the CMH service area.

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4. In [REDACTED], CMH sent the Appellant's mother/representative notices that her tax return needed to be submitted to CMH to verify her income as part of the FSS eligibility process. The notices stated "In order to receive a check for [REDACTED], the information is needed by [REDACTED]." (Exhibit 3, pages 1, 2).
5. The [REDACTED] notification was addressed to Appellant's mother/representative but contained the first name of a FSS beneficiary other than Appellant. (Exhibit 3, page 2).
6. The CMH did not receive a copy of Appellant's mother/representative's [REDACTED] tax return earlier than mid-to-late [REDACTED]. (Exhibit 3, page 8).
7. On [REDACTED], CMH sent the Appellant's mother/representative notice that the Family Support Subsidy grace period had ended. (Exhibit 1, page 3).
8. The Appellant's FSS payments were not authorized from September through [REDACTED]. (Exhibit 5, page 2).
9. On [REDACTED], the Michigan Administrative Hearing System, received the Appellant's request for an Administrative Hearing. (Exhibit 1, page 1).

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

In this case, the Appellant had been receiving the Family Support Subsidy. The Family Support Subsidy Program is created through the Michigan Mental Health Code, Public Act 258 of 1974. The purpose of the Family Support Subsidy is stated in the Michigan Mental Health Code:

330.1156 Family support subsidy program; establishment; purpose.

The director of the department shall establish a family support subsidy program. The purpose of the family support subsidy program is to keep families together and to reduce capacity in state facilities by defraying some of the special costs of caring for eligible minors, thus facilitating the return of eligible minors from out-of-home placements to their family homes, and preventing or delaying the out-of-home placement of eligible minors who reside in their family homes.

The Michigan Mental Health Code also outlines the situations in which the Family Support Subsidy can be terminated:

330.1159 Termination or denial of family support subsidy; hearing.

(1) The family support subsidy shall terminate if 1 or more of the following occur:

(a) The eligible minor dies.

(b) The family no longer meets the eligibility criteria in section 157(2).

(c) The eligible minor attains the age of financial documentation.

(2) The family support subsidy may be terminated by a community mental health services program if a report required by section 158(3) is not timely made or a report required by section 158(3)(a) is false.

(3) If an application for a family support subsidy is denied or a family support subsidy is terminated by a community mental health services program, the parent or legal guardian of the affected eligible minor may demand, in writing, a hearing by the community mental health services program. The hearing shall be conducted in the same manner as provided for contested case hearings under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

The CMH witness testified that she sent out two written notices indicating to Appellant's mother that FSS payments would cease to be authorized in ██████████ unless she submitted financial documentation to prove income. The CMH witness testified that it is bound to follow the state law and policy that requires proof of income prior to authorization of payments. The CMH witness explained that because the ██████████ financial documentation was not submitted to CMH it was prohibited from authorizing Appellant's Family Support Subsidy payments for ██████████.

The Appellant's mother testified that she understood from prior years that her tax returns were needed to continue Family Support Subsidy payments. Appellant's mother testified that she believed she submitted the financial documentation and disregarded the ██████████ second request letter because it had another child's name typed in the letter's text. The Appellant's mother testified that she faxed the return to CMH in ██████████ while the FSS worker was on vacation. The Appellant's mother stated that she would have provided the tax return had she

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been made aware that CMH did not have it, but she was not made aware, and therefore she should receive the three months of Family Support Subsidy payments.

This Administrative Law Judge is presented with conflicting statements between the Appellant's mother and the CMH witness. The CMH asserts the statement's of Appellant's mother are less credible because at one time she stated she disregarded the [REDACTED] letter and at a separate time she stated she faxed the [REDACTED] tax return in [REDACTED]; the statements contradicting each other.

This Administrative Law Judge carefully considered the statements of both parties and reviewed the document evidence. The Appellant bears the burden of proving by a preponderance of evidence that she fulfilled the proof of income statutory and policy requirement. The Appellant's mother did not provide document evidence to corroborate her statements that she submitted a tax return before [REDACTED], and therefore did not preponderate.

This Michigan Administrative Hearing System office is bound to follow the state law and policy. The state law applicable to this case is clear and there are no exceptions. Family Support Subsidy eligibility requires proof of income before payments can made. Therefore, it was proper for the Appellant's Family Support Subsidy payments to be suspended for the three months financial documentation was missing.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that it was proper for the Appellant's Family Support Subsidy to be suspended because financial documentation was missing.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Olga Dazzo
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 6/3/2011

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***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant 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 of the rehearing decision.