

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201127246
Issue No: 6004
Case No: [REDACTED]
Hearing Date: April 21, 2011
Lansing AH

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 petitioner's request for a hearing. After due notice, an in-person hearing was held on April 21, 2011. The department was represented by [REDACTED] for the Adoption Subsidy Program, non-attorney.

ISSUE

Did the DHS properly deny Petitioner's remaining costs for the extraction of her adopted son's impacted teeth?

FINDINGS OF FACT

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

1. Petitioner is the adoptive mother of a son whose date of birth is [REDACTED]
2. Petitioner's son was approved medical subsidy.
3. Petitioner's son had verified medical documentation that he needed molars extracted for impacted teeth to "reduce morbidity" per [REDACTED].
4. On January 30, 2009, Petitioner incurred the remaining expense for the extractions of [REDACTED] Exhibit 3.
5. Petitioner requested reimbursement on numerous occasions, beginning in 2008.

6. Department indicated to Petitioner on April 13, 2009, that Petitioner should resubmit her bill. On August 11, 2009, the DHS denied for failure to obtain preauthorization. Petitioner submitted a preauthorization in 2008.
7. The department's denial notice was not consistent with the department's testimony at the hearing regarding denial.
8. The department testified that it could not testify on certification as it was outside of the expertise/purview of the individual representing the department testifying at the hearing.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

ADOPTION MEDICAL SUBSIDY PROGRAM

Adoption medical subsidy is intended to assist with paying for services related to the treatment of physical, mental, or emotional conditions certified by the Adoption Subsidy Program Office. State law makes it the payment of last resort (MCLA 400115h). Parents retain responsibility for making treatment arrangements for their child, seeking prior approval for services when required, and making payment arrangements with providers.

Adoption medical subsidy assists with medical, surgical, hospital and related expenses only for condition(s) certified by the Adoption Subsidy Program Office. Related expenses may include pharmaceutical expenses, prescriptions, medical supplies, or laboratory expenses.

Adoption medical subsidy assistance for psychological or mental health treatment may be approved for specific mental or emotional conditions that existed prior to the adoption of the **cause** of which existed prior to the adoption and that have been certified by the Adoption Subsidy Program Office.

The purview of the Administrative Law Judge is review the department's actions and to make a determination if those actions are correct under policy and procedure. The department is required to meet the burden of proof as to establish as to what it has done and why by a preponderance of evidence.

The undersigned Administrative Law Judge has reviewed the entire record in this case and does not find that the department has met its burden of proof. Claimant requested reimbursement on numerous occasions and repeatedly. The department did not act

timely and did not in fact act in all for quite some time. Moreover, the purported denial on this notice did not contain the reason the department indicated at the administrative hearing was the reason for denial. Moreover, the department indicated that it could not testify with regards to certification as certification was outside of its expertise/purview. As the DHS was unable to address the certification issue, the DHS could not meet its burden of proof.

The department's denial is reversed. The department is ordered to reimburse Petitioner for [REDACTED] for the remaining portion of the molar extractions. Petitioner incurred out of pocket.

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 incorrect.

Accordingly, the department's determination in this matter is REVERSED.

The department is ORDERED to issue a payment to Petitioner for [REDACTED]. It is so ORDERED.

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

Date Signed: August 2, 2011

Date Mailed: August 3, 2011

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

JGS/db

cc: [REDACTED]