

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-19229
Issue No.: 2015
Case No.: [REDACTED]
Hearing Date: March 10, 2011
DHS County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on March 10, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Medical Assistance (MA or Medicaid) benefits to Claimant in accordance with DHS policy and procedure?

FINDINGS OF FACT

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

1. In late 2010, Claimant applied for MA benefits with DHS.
2. Claimant provided DHS with the required paternity and child support information regarding her four children and one grandchild.
3. On January 5, 2011, DHS denied Claimant's application.
4. DHS' stated reason for the denial of the application was that Claimant failed to cooperate with the DHS Office of Child Support (OCS).
5. On January 24, 2011, Claimant filed a hearing request notice with DHS.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

In this case, DHS denied Claimant's application, citing as its authority BEM Item 255, "Child Support." I agree that this manual Item is the appropriate legal authority to use in deciding Claimant's rights in this case.

The philosophy statement at the beginning of BEM 255 consists of two sentences:

CHILD SUPPORT

DEPARTMENT PHILOSOPHY

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

I have reviewed BEM 255, consisting of sixteen pages, in its entirety. I find that this section does not define the word "cooperate," and delegates to the OCS the complete administration of the paternity and child support program including the determination of what the term "cooperation" means.

I find that this means that unless OCS communicates to the local office that a client has failed to cooperate, a DHS local office pursuant to BEM 255 does not have the authority to make that determination on its own. I take this section also to mean that without OCS documentation that failure has occurred, DHS may not take further action such as imposing penalties, terminating or denying benefits.

I also conclude that BEM 255 does not specify any time periods or deadlines by which cooperation must be achieved. I believe that this omission is intentional because of the difficulties of establishing paternity and processing child support. I believe this omission is consistent with the philosophy of DHS quoted above, which is to strengthen families and encourage cooperation with the child support system, whether it takes a long time or not.

Looking now at the record before me in this case, I find nothing in the record to indicate that Claimant did not cooperate. I find nothing in the record to prove in what way Claimant failed to cooperate. Indeed, Claimant's credible and un rebutted testimony is that she cooperated with OCS at all times. Moreover, the Bridges computer printout that is also in evidence appears to indicate that Claimant cooperated as well.

Based on my findings of fact and conclusions of law above, I find that DHS has failed to prove by clear and convincing evidence that Claimant failed to cooperate with OCS. I find and conclude that Claimant met the legal requirements of cooperation with OCS and is entitled to have her MA application processed. I find that DHS erred and a remedy is appropriate.

In conclusion, I find and determine that DHS is hereby REVERSED. DHS is ORDERED to rescind its denial of Claimant's application, reopen and reprocess her application, and determine her eligibility for MA in accordance with this opinion and DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides and determines that DHS is REVERSED in this matter. IT IS HEREBY ORDERED that DHS shall rescind its denial of Claimant's MA application and reopen and reprocess her application, determining her eligibility in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 16, 2011

Date Mailed: March 17, 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.

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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.

JL/pf

cc:

