

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

IN THE MATTER OF:



Reg. No. 2011-41197
Issue No. 6004
Case No.
Hearing Date: August 25, 2011

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Petitioner's request for a hearing. After due notice, a hearing was held in Detroit, Michigan on Thursday, August 25, 2011. The Petitioner appeared and testified. appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly denied the Petitioner's request for an Adoption Support Subsidy extension of benefits?

FINDINGS OF FACT

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

1. On January 7, 2010, the Department mailed the Petitioner a termination letter and a packet to determine continued eligibility for her adoptive child. (Exhibit A)
2. On or about January 22, 2010, the Department received a Verification of Student Information showing that her adoptive son was a full-time high school student for the 2009-2010 school year. (Exhibit C9)
3. The Petitioner's adoptive son turned 18 years of age on

4. The Petitioner did not turn in any other requested information necessary to determine continued eligibility.
5. The Petitioner did not have any communication with the Department stating she was having problems securing the requested information.
6. The Petitioner's Adoption Support Subsidy terminated effective April 1, 2010.
7. Subsequent to the termination of benefits, the Petitioner requested the Adoption Subsidy extension.
8. On February 1, 2011, the Petitioner's request was denied. (Exhibit B)
9. On March 28, 2011, the Department received the Petitioner's timely written request for 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, formerly known as the Family Independence Agency, pursuant to MCL 400.10, *et seq.* Department policies regarding adoption subsidy are found in the Adoption Assistance Manuals ("AAM"). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

Adoption support subsidy and adoption medical subsidy agreements end on the child's 18th birthday. AAM 630. The expiration of the agreement causes the closure of payments and subsidy-related Medicaid at the end of the month of the child's 18th birthday. AAM 630. The adoption subsidy office sends an informational (termination) letter to the adoptive parent(s) 60 days prior to the child's 18th birthday explaining that the subsidy will end and outlines the eligibility requirements for extensions. AAM 630.

A state funded adoption support subsidy extension may be authorized until age 19 or high school graduation, whichever is earlier provided the child meets all the following eligibility criteria:

- The adoptee is age 18 and has not completed high school or a GED program.
- The adoptee is regularly attending high school, a GED program, or a program for children with disabilities on a full-time basis and progressing toward achieving a high school diploma, certificate of completion, or GED.

- The adoptee is not eligible for Supplemental Security Income (“SSI”).

AAM 630

After receipt of the letter notifying the adoptive parent(s) of the termination of the adoption subsidy at age 18, the adoptive parent(s) may request an extension by providing required documentation to the adoption subsidy office. AAM 630. The Adoption Subsidy Extension Application and the Verification of Student information (provided to the adoptive parent(s) with the termination letter) must be submitted within 90 days from the termination letter date in order to qualify for an extension. AAM 630. In all cases, if the required documentation is not received by the adoption subsidy office within 90 days after the date of the termination letter, an extension will not be granted. AAM 630.

In this case, the Petitioner’s received state-funded adoption support subsidy for her adoptive child. Pursuant to policy, the Department sent a termination letter to the Petitioner which included information regarding the extension process, the extension application, and other required documentation. Although the termination letter was sent 54 days prior to the adoptive child’s 18th birthday as opposed to 60 days, this error is harmless in that the Petitioner did not submit the required documentation to the subsidy office until several months later. In addition, the Petitioner testified that she was familiar with the extension request process and that she was aware the subsidy had ended effective April 1, 2010. The Petitioner stated that she had some ongoing medical issues during this time however she never communicated those concerns until well after the required documentation was due. As cited above, AAM 630 provides that in **all** cases, an extension request will not be granted if received after the 90 day period. Here, the Petitioner submitted the application and required documents in or around December 2010, more than 90 days from the January 2010 termination letter. Ultimately, the Department established it acted in accordance with Department policy when it terminated the adoption support subsidy and denied the extension request. Accordingly, the Department’s actions are AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department acted in accordance with Department policy when it terminated the Petitioner’s Adoption Support Subsidy and denied the extension request as untimely.

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Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 9, 2011

Date Mailed: September 9, 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.

CMM/cl

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