

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-43610
Issue No: 2015
Case No: [REDACTED]
Hearing Date:
August 31, 2011
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 received on June 20, 2011. After due notice, a telephone hearing was held on August 31, 2011. Claimant did not appear, but was represented by [REDACTED]

ISSUE

Whether the department properly determined that Claimant's two children were not eligible to be included as group members for Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. [REDACTED] submitted an application for MA and retro MA on December 29, 2010. The claimant indicated on this application that he resided with his two children.
2. The department determined the claimant's two children were already active on their mother's case and did not consider the claimant for FIP-related MA. The department did deny the claimant on the basis of disability.
3. The claimant's representative submitted a hearing request on June 20, 2011.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

For purposes of establishing group composition and eligibility for MA, department policy provides that children in a joint custody arrangement are considered to be living with only one parent, who is designated the primary caretaker. BEM 211. The primary caretaker is the parent who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when averaged over a twelve month period. The twelve month period begins at the time the determination is being made. Vacations and visitations with the absent parent do not interrupt primary caretaker status. BEM 211.

Verification requirements for Group 2 FIP-related MA indicate the department must verify the primary caretaker when questioned or disputed. BEM 211. Verification sources of primary caretaker status are:

- Court order that addresses custody or visitation.
- School records indicating who enrolled the child and who is called in an emergency situation.
- Medical records stating where the child lives, who is responsible for the child's medical care.
- Child care records showing where the child lives and who makes and pays for the child care arrangements. BEM 211.

In this case, the department did not verify the primary caretaker when disputed information was received. The department admits that the claimant's application submitted on December 29, 2010 indicated that he was residing with his two children.

The department found that the children were already active on the mother's case and did not consider the claimant for Group 2 FIP-related MA.

When the department receives conflicting information from the department about primary caretaker status, they are to request verification from the parent. Appropriate verification sources are listed in BEM 211 (see above). While the claimant's children were active on their mother's case, this does not mean that this arrangement can't change. Thus, when the department received disputed information as to whom the children resided with, they were required to request verification of the primary caretaker status. Therefore, the department erred in not requesting any such verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly determine that Claimant's two children were not eligible to be included as group members for Medical Assistance (MA) eligibility.

The department's actions are REVERSED and the department shall issue Verification Checklist(s) as necessary to obtain verification of primary caretaker status and initiate an eligibility determination on the claimant's December, 2010 MA and retro MA application for Group 2 FIP-related MA.

It is SO ORDERED.

/s/

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 5, 2011

Date Mailed: October 5, 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.

SLM/ac

cc:

