

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201221133
Issue No: 2003, 3014
Case No: [REDACTED]
Hearing Date: May 8, 2012
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on Tuesday, May 8, 2012. Claimant appeared and provided testimony on her behalf.

ISSUE

Was caretaker's daughter absence from the group composition?

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 December 13, 2011, the Department of Human Services (DHS) terminated the Claimant's caretaker privileges eligibility based on Claimant's 17 year old [REDACTED] living out of the home with an older [REDACTED] in order to attend school in a different district.
2. On December 12, 2011, the DHS representative testified that the Claimant admitted that her [REDACTED] was living out of home 5 days a week and back in home on weekends.
3. Admission to a second DHS representative is that the school records state that her [REDACTED] lives with the older [REDACTED]; and that the school records show the older [REDACTED] as guardian of the [REDACTED].

CONCLUSIONS OF LAW

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

Facts above are undisputed.

Group 2 FIP-Related MA, Health Kids and SSI-Related MA

Living with others means sharing a home where family members usually sleep, **except** for temporary absences. A temporarily absent person is considered in the home.

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

A person's absence is temporary if for the month being tested:

- His/her location is known; and
- There is a definite plan for him to return home; and
- He/she lived with the group before the absence (Note: newborns and unborns are considered to have lived with their mothers); and
- The absence did not last, or is not expected to last, the entire month being tested unless the absence is for education, training, or active duty in the uniformed services of the U.S.

The evidence of record does not establish that the Claimant's [REDACTED] absence lasted or was expected to last for the entire month being tested.

Therefore, disability has not been established at Step 2 by the competent, material and substantial evidence on the whole record.

DECISION AND ORDER

According, MA-P termination is **REVERSED** and reinstatement of benefits within 10 work days is **ORDERED**

/s/
William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 11, 2012

Date Mailed: May 11, 2012

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.

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.

WAS/tb

cc:

