

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P. O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax (517) 334-9505

IN THE MATTER OF:

██████████  
██████████

Appellants

\_\_\_\_\_ /

**Docket No.** 2012-24673 CMH  
2012-24674 CMH

**Case No.** ██████████

**DECISION AND ORDER**

These matters are before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon the Appellant's request for a hearing.

After due notice, and with the agreement of the parties, a joint telephone hearing was held on ██████████. ██████████, Appellants' mother, appeared on behalf of the Appellants.

██████████, Due Process Hearing Coordinator, represented the Department's agent, ██████████ (CMH). ██████████, Family Support Subsidy Coordinator, appeared as a witness for the CMH.

**ISSUE**

Was it proper for the Appellants' Family Support Subsidy (FSS) to be terminated because the family's annual Michigan Taxable income was over the statutory limit of ██████████?

**FINDINGS OF FACT**

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

1. The Appellants are Medicaid beneficiaries.
2. The Appellants reside with their parents in ██████████ Michigan.
3. ██████████ (CMH) is a Prepaid Inpatient Health Plan (PIHP) under contract with the Michigan Department of Community Health to provide Medicaid covered services to Medicaid beneficiaries who reside in the CMH service area.

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4. On [REDACTED], Appellants' mother/representative executed a Family Support Subsidy Program Application/Status Report indicating the family's annual Michigan Taxable income was [REDACTED] or less. (Exhibit 8).
5. The CMH did not receive a copy of Appellants' mother/representative's [REDACTED] Michigan tax return needed to establish the family's annual Michigan Taxable income for [REDACTED]. On [REDACTED], [REDACTED] the FSS Coordinator sent a letter requesting a copy of the Appellants' mother/representative's [REDACTED] Michigan Individual Income Tax Return MI-1040. (Exhibits 3&4 and testimony).
6. Appellants' mother did submit a MI-140 showing taxable income for [REDACTED] in the amount of [REDACTED]. (Exhibit 1).
7. On [REDACTED], CMH sent the Appellant's mother/representative notice that they did not meet the program qualifications for the Family Support Subsidy Program, because their family's Michigan Taxable income for the year immediately preceding the date of application exceeded the program limit of [REDACTED]. (Exhibit 2).
8. On [REDACTED], the Michigan Administrative Hearing System received the Appellant's request for an Administrative Hearing. (Exhibit 9).

**CONCLUSIONS OF LAW**

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

In this case, the Appellants had been receiving the Family Support Subsidy. The Family Support Subsidy Program is created through the Michigan Mental Health Code, Public Act 258 of 1974. The purpose of the Family Support Subsidy is stated in the Michigan Mental Health Code:

**330.1156 Family support subsidy program;  
establishment; purpose.**

The director of the department shall establish a family support subsidy program. The purpose of the family support subsidy program is to keep families together and to reduce capacity in state facilities by defraying some of the special costs of caring for eligible minors, thus facilitating the return of eligible minors from out-of-home placements to their

family homes, and preventing or delaying the out-of-home placement of eligible minors who reside in their family homes.

The eligibility criteria for the family support subsidy program are also contained in the Michigan Mental Health Code:

**330.1157 Rules; creation and contents of application forms.**

Sec. 157.

(1) Subject to section 114a, the department shall promulgate rules to implement sections 156 to 161. The rules shall include an adoption by reference of the standards and criteria used by the department of education in the identification of eligible minors. The department shall also consult with the department of education on the implementation and coordination of the family support subsidy program.

(2) The department shall create application forms and shall make the forms available to community mental health services programs for determining the eligibility of applicants. The forms shall require at least the following information, which constitutes the eligibility criteria for receipt of a family subsidy:

(a) A statement that the family resides in this state.

(b) Verification that the eligible minor meets the definition in section 100a.

(c) A statement that the eligible minor resides, or is expected to reside, with his or her parent or legal guardian or, on a temporary basis, with another relative.

(d) A statement that the family is not receiving a medical subsidy for the eligible minor under section 115h of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115h of the Michigan Compiled Laws.

(e) Verification that the taxable income for the family for the year immediately preceding the date of application did not exceed ██████████, unless it can be verified that the taxable

income for the family for the year in which the application is made will be less than ██████████.

The Michigan Mental Health Code also outlines the situations in which the Family Support Subsidy can be terminated:

**330.1159 Termination or denial of family support subsidy; hearing.**

(1) The family support subsidy shall terminate if 1 or more of the following occur:

- (a) The eligible minor dies.
- (b) The family no longer meets the eligibility criteria in section 157(2).
- (c) The eligible minor attains the age of financial documentation.

(2) The family support subsidy may be terminated by a community mental health services program if a report required by section 158(3) is not timely made or a report required by section 158(3)(a) is false.

(3) If an application for a family support subsidy is denied or a family support subsidy is terminated by a community mental health services program, the parent or legal guardian of the affected eligible minor may demand, in writing, a hearing by the community mental health services program. The hearing shall be conducted in the same manner as provided for contested case hearings under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

The administrative rules promulgated to implement the family support subsidy program provide in part:

R 330.1656 Verification of income eligibility.

Rule 1656. (1) Verification of income eligibility may be accomplished utilizing 1 of the following provisions:

- (a) Examination of the taxable income line of the family's previous year Michigan income tax return.

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(b) If a Michigan income tax form was not filed, the family's federal or other state's previous year income tax returns may be used.

(c) If the information specified in subdivisions (a) and (b) of this subrule is not available, then other evidence of current incomes may be used as verification from which a projection of family income can be made.

(d) For a new applicant, if the previous year's taxable income would make the family member ineligible, but the current year's taxable income would make the family member eligible, then verification of income eligibility shall be accomplished by examination of the evidence of current incomes from which a projection of family income shall be made.

(2) A family that loses eligibility for the family support subsidy program due to a taxable income of more than \$60,000.00 shall not reapply until 1 year after the termination of the subsidy.

(3) A family in repayment status with this program shall not reapply until its debt is repaid. [Mich Admin Code R 330.1656].

The CMH witness ██████████ testified that she was the FSS Coordinator and was responsible for obtaining information regarding eligibility for the FSS Program. ██████████ stated she was concerned about the Appellants' application for the FSS because she had received the Appellants' mother-representative's Federal tax return for ██████████ but had not received their MI-1040 tax return. ██████████ stated after receiving the Appellants' mother-representative's ██████████ Michigan tax return, she questioned Appellants' eligibility for the FSS program as the family's income exceeded ██████████

The Appellants' mother ██████████ testified her children ██████████ age ██████████ and ██████████ age ██████████ were both special needs children. ██████████ stated she applied for the FSS Program because the school advised they were eligible. ██████████ acknowledged that the school was not informed of their ██████████ income which included Lottery winnings. ██████████ indicated she did not realize the Lottery winnings were income. She did admit, however, that the family had won the Lottery, and had received the ██████████ listed as taxable income on their ██████████ MI-1040 tax return, in ██████████ of ██████████ as a cash payout from the Lottery.

This Michigan Administrative Hearing System office is bound to follow the state law and policy. The state law applicable to this case is clear and there are no exceptions. Family Support Subsidy eligibility requires that the family income not exceed the statutory limit of ██████████ in order to be eligible for the subsidy. Since the family's income far exceeded the statutory limit of ██████████ for ██████████, it was proper for the CMH to terminate the Appellants' Family Support Subsidy payments.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that it was proper for the Appellants' Family Support Subsidy to be terminated because the family's annual Michigan Taxable income far exceeded the statutory limit of [REDACTED]

**IT IS THEREFORE ORDERED** that:

The Department's decision is AFFIRMED.



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William D. Bond  
Administrative Law Judge  
for Olga Dazzo  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 2/29/2012

**\*\*\* NOTICE \*\*\***

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.