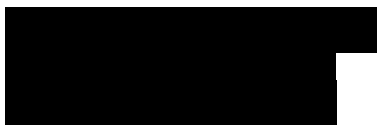


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201227891
Issue No: 1022, 2018
Case No: [REDACTED]
Hearing Date: February 23, 2012
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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. After due notice, a telephone hearing was held on February 23, 2012. The claimant appeared and provided testimony.

ISSUE

Did the department properly determine the claimant's group composition for the purposes of establishing eligibility for the Medical Assistance (MA) program and the Family Independence Program (FIP)?

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 claimant applied for FIP, MA, and FAP benefits on November 10, 2011. (Department Hearing Summary).
2. The claimant stated on his application that his three children were currently living with him. (Department Hearing Summary).
3. The claimant was approved for FIP and MA benefits and FIP benefits were issued for the month of December, 2011. (Department Hearing Summary).
4. The claimant's FIP and MA cases were closed effective January 1, 2012 due to the department receiving information that the claimant's children had gone back to live with their mother and had moved out of the claimant's residence. (Department Hearing Summary).
5. The claimant filed a hearing request on December 12, 2011 protesting the closure of his FIP and MA cases.

CONCLUSIONS OF LAW

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

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

For the FIP and MA programs, the department is to determine the size of the claimant's group for purposes of determining benefit eligibility and amount. For FIP, department policy states as follows:

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG) and the FIP certified group. To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker.

The primary caretaker is the person 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. When a child spends time in the home of multiple caretakers who do not live together (such as joint physical custody or parent/grandparent), Bridges determines the primary caretaker based on the number of days per month a child sleeps in the home. Accept the client's statement regarding number of days the child sleeps in the caretaker's home unless questionable or disputed by another caretaker.
BEM 210.

Therefore, according to policy it is imperative to determine who the primary care taker of any minor children is so that FIP eligibility may be established. In order to do so, the location where the children sleep for the majority of the month must be ascertained. BEM 210.

Likewise, for determining MA benefits, group composition is essential to making an eligibility determination. Policy states as follows:

For all Group 2 FIP-related MA and Healthy Kids categories, when a child lives with both parents who do not live with each other (e.g., child lives with his mother two weeks each month and his father the other two weeks), only one parent, the primary caretaker, is in the fiscal group. You must determine a **primary caretaker**. 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 visitation with the absent parent do not interrupt primary caretaker status. BEM 211.

Again, policy establishes that determining the primary caretaker of any minor children is essential to determining MA eligibility.

In cases where the residency of minor children is in question, policy states as follows:

Caretaking Time Disputed

When the number of days per month a child sleeps in the home of multiple caretakers is questionable or disputed, give each caretaker the opportunity to provide evidence of their claim. Base primary caretaker determination upon best available information and evidence supplied by the caretakers; see [Verification Sources](#) in this item. BEM 210.

Therefore, in an instance where the individual who is the primary caretaker of the children is disputed, the department is required to give each caretaker an opportunity to provide evidence as to where the minor child(ren) reside.

In the case at hand, the department did not give the claimant, nor his children's mother the opportunity to provide evidence as to where the children were residing and in turn who the primary care taker of the children was. Accordingly, the department did not act properly in accordance with policy in terminating the claimant's FIP and MA benefits as a result of him allegedly no longer being the primary caretaker of the children. The department should have given both the claimant and his children's mother the opportunity to present evidence as to who the primary caretaker of the children is.

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 the claimant's group size and eligibility for the FIP and MA programs.

Accordingly, it is HEREBY ORDERED that the department shall redetermine the claimants eligibility for the FIP and MA programs and redetermine the whom the primary caretaker of the children was during the time period in question for purposes of determining the cliamant's proper group size and eligiblity. The department shall allow the claimant and the mother of the claimant's children to submit evidence as to who the primary caretaker of the children is as per policy.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 2, 2012

Date Mailed: March 5, 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.

CSS/cr

cc:

[REDACTED]