

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338828
Issue No.: 6033
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne County DHS #69

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 2, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], attorney with the federal compliance division, [REDACTED], AAG representing the Department, and [REDACTED], DHS Manager.

ISSUE

Did the Department properly close Claimant's out of home care funded through Title IV- E on the grounds that the Court Order does not contain findings with specific documentation that the placement is contrary with the [REDACTED] [REDACTED] to remain in the home?

FINDINGS OF FACT

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

1. On November 19, 2009 [REDACTED] of the [REDACTED] [REDACTED] signed an order placing into [REDACTED] [REDACTED] minor Claimant for the following reason:

The entire paragraph falls under IV-E. The entire paragraph includes inserted language in a blank space: "extreme environmental neglect and physical neglect." Exhibit 1. The legal cites on the court order as submitted by the department is unclear and fails to clearly identify that authority for MCL and MCR.

2. On December 28, 2012 DHS issued a Notice of Case Action indicating that payment through the Title IV-E program was being canceled/denied on the grounds that: "The court order does not contain the finding with specific documentation that it is contrary to the child welfare to remain in the home". Exhibit 2.
3. On March 26, 2013 minor Claimant's [REDACTED] Litem filed a hearing request indicating that he was informed by the Department that while language in Section 4A was correct there was no "X" in the margin.
4. There is no specific federal law, DHS policy or DHS procedure requiring an "X."

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA

program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Applicable DHS policy is found in FOM.

In this case, the Notice of Case Action states specifically that closure was being triggered due to:

The court order does not contain a finding with specific case documentation that it is contrary to the [REDACTED] to remain in the home. Exhibit 2.

As noted in the Finding of Facts section 4a of the court order states specifically that: "It is contrary to the [REDACTED] of the [REDACTED] to remain in the home..." Exhibit 1.

The undersigned Administrative Law Judge has reviewed the evidence and finds that the evidence clearly indicates that the Court Order does in fact contain the necessary language.

As to the need to check off a box in the left hand margin, testimony on the record indicates that there is no federal policy or DHS policy that indicates that the box must be specifically checked. This ALJ finds that to require the same, is, as the [REDACTED] states, "arbitrary and capricious." This ALJ finds it to be also nonsensical. It is beyond form over substance. There is no requirement. The requirements in federal and state law as well as indicated in the notice of case action were met by the clear language on the order. The department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when the department closed the Title IV-E funding on behalf of minor claimant. If Claimant is entitled to continuing benefits, the Department shall issue those benefits as continuing as required under DHS policy and procedure.

It is SO ORDERED.

Accordingly, the Department's AMP FIP FAP MA SDA TITLE IV-E decision is AFFIRMED **REVERSED** for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The department is ordered to remove the Title IV-E closure, reinstate the case, and issue any supplemental benefits to or on behalf of minor Claimant as required under federal and state law and DHS policy.

/s/
Janice G. Spodarek
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/22/13

Date Mailed: 7/23/13

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant 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 date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JGS/hj

cc:

