

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P. O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax (517) 373-4147

IN THE MATTER OF:

Docket No. 14-007951 CMH

██████████

██████████

██████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 330.1159(c)(3) and Mich Admin Code R 330.1643, and upon a request for hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████, Appellant's mother, appeared and testified on Appellant's behalf. ██████████, Manager of Due Process, represented the Respondent ██████████ (CMH). ██████████, Family Supports Subsidy Coordinator for ██████████, testified as a witness for the CMH.

ISSUE

Did the CMH properly deny Appellant's application for the Family Support Subsidy Program?

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 or about ██████████, the CMH received an application for the Family Support Subsidy Program submitted on Appellant's behalf. (Respondent's Exhibit, pages 4-5).
2. Attached to that application was a form from ██████████ dated ██████████, in which the representative of the schools was asked to identify the eligibility category, among a list provided, under which Appellant was eligible for special education services. (Respondent's Exhibit A, page 4).

██████████
Docket No. 14-007951 CMH
Decision and Order

3. On that form, the representative for the schools indicated that “[s]tudent’s educational programming does not meet any of the above criteria.” (Respondent’s Exhibit A, page 4).
4. On ██████████, the CMH sent Appellant written notice that the application for the Family Support Subsidy Program was denied on the basis that “[y]our determination, completed by school, does not meet one of the required eligibility categories.” (Respondent’s Exhibit A, page 3).
5. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed on Appellant’s behalf. (Petitioner’s Exhibit 1, pages 1-5).

CONCLUSIONS OF LAW

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.

MCL 330.1156

A parent or legal guardian may apply for the Family Support Subsidy Program if he or she believes a family member is eligible for the subsidy or will become eligible in the near future. See Mich Admin Code R 330.1621.

Regarding the eligibility criteria for the program, MCL 330.1157(2) provides:

(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.

Docket No. 14-007951 CMH
Decision and Order

(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 \$60,000.00, 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 \$60,000.00.

MCL 330.1157(2)

An “Eligible minor” is defined as follows:

(28) “Eligible minor” means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

(a) Severely mentally impaired.

(b) Severely multiply impaired.

(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under subsection (1) of R 340.1758 of the Michigan administrative code or in a program designed for the severely mentally impaired or severely multiply impaired.

MCL 330.1100a(28)

Docket No. 14-007951 CMH
Decision and Order

Moreover, in demonstrating that a minor is eligible for the program, the applicant must submit written verification from the applicable public school:

(1) An applicant for the family support subsidy program shall provide written verification from the public school which the family member attends or would attend if the family member were in the public school system which shall report the diagnostic category recommended for the family member by the school's multidisciplinary evaluation team.

(2) If the family member has been recommended by the multidisciplinary evaluation team for the diagnostic category of autistic impaired, then the parent or legal guardian shall ensure that the written verification includes the classroom or program placement that is required for family members who are determined to be autistic impaired.

Mich Admin Code R 330.1607

Here, Appellant's mother applied for the Family Support Subsidy Program on Appellant's behalf and the required documentation was submitted from the applicable public school. However, that documentation failed to provide that Appellant met one of the eligibility categories for the program and, instead, specifically stated that "[Appellant's] educational programming does not meet any of the above criteria."

In response, Appellant's representative acknowledges that the CMH acted properly given the information it had and she only disputes the school's determination. Additionally, Appellant's representative asks for an independent review of the school's determination.

However, the undersigned ALJ's jurisdiction is limited to reviewing the CMH's decision and he has no authority over the school or the determination it made. Pursuant the above statutes and rules, the CMH must rely on the information provided from the school and, based on the information provided in this case, Appellant's application was properly denied. To the extent Appellant's representative disputes the school's determination, she will have to pursue relief through it and the only decision at issue in this case is affirmed.

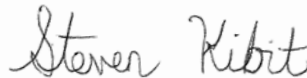
[REDACTED]
Docket No. 14-007951 CMH
Decision and Order

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH properly denied Appellant's application for the Family Support Subsidy Program.

IT IS THEREFORE ORDERED that:

The Respondent's decision is **AFFIRMED**.



Steven J. Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/db

cc: [REDACTED]

***** 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.