



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 21, 2016
MAHS Docket No.: 16-002434
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and upon the Petitioner's request for a hearing.

After due notice, a hearing was held on [REDACTED]. Petitioner is a minor child. He did not appear at the hearing. Petitioner's mother, [REDACTED], appeared on behalf of the Petitioner. [REDACTED], Assistant Coordinator of Due Process for [REDACTED] Community Mental Health (CMH) and [REDACTED], Compliance Coordinator for [REDACTED], appeared and testified on behalf of the Respondent Department of Health and Human Services (Department).

State's Exhibit A pages 1-11 and Petitioner's Exhibits 1-2 were admitted as evidence.

ISSUE

Did the Community Mental Health (CMH) properly deny Petitioner's application for a Family Support Subsidy?

FINDINGS OF FACT

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

1. Petitioner is a minor child, date of birth [REDACTED].
2. Petitioner is a Medicaid beneficiary.
3. CMH is under contract with the Department of Health and Human Services (DHHS) to provide Medicaid covered services to people who reside in the CMH service area.

4. On [REDACTED], [REDACTED], director of Student Support Services determined that Petitioner's educational programming does not meet any of the appropriate criteria to meet eligibility for the Family Support Subsidy Program. (State's Exhibit A page 4)
5. On [REDACTED], Petitioner's mother filed an application for Family support Subsidy with Community Mental Health for Petitioner
6. On [REDACTED], the [REDACTED], Inc., ([REDACTED]) denied the application for Family Support Subsidy stating: Based on the documentation submitted for review, you do not meet program qualifications at this time for the following reasons: Your determination, completed by school, does not meet one of the required educational categories or the school determination has not been provided to MORC for review. If you do not agree with the school's determination, you have appeal rights under Special Education law. Please contact your child's school for more information on this process.
7. On [REDACTED], the [REDACTED] County Community Mental Health sent Petitioner's mother a letter which notified her that the Local Appeal was closed indicating that information received from your school district indicates that your child does not receive Special Education in one of the appropriate categories, and is therefore currently ineligible for the Family Support Subsidy. If you do not agree with the school's assessment, you have appeal rights under Special education law. Please contact your child's school for more information on this process. If your child's classification is changed, you may re-apply for the Family Support Subsidy. (State's Exhibit A pages 5-6)
8. On [REDACTED], the Michigan Administrative Hearing System received a Request for Hearing to contest the denial of the Family Support Subsidy.

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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:

Title XIX of the Social Security Act, enacted in 1965, authorizes Federal grants to States for medical assistance to low-income persons who are age 65 or over, blind,

disabled, or members of families with dependent children or qualified pregnant women or children. The program is jointly financed by the Federal and State governments and administered by States. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the State to the individuals or entities that furnish the services.

42 CFR 430.0

The State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program.

42 CFR 430.10

Section 1915(b) of the Social Security Act provides:

The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this subchapter, may waive such requirements of section 1396a of this title (other than subsection (s) of this section) (other than sections 1396a(a)(15), 1396a(bb), and 1396a(a)(10)(A) of this title insofar as it requires provision of the care and services described in section 1396d(a)(2)(C) of this title) as may be necessary for a State...

42 USC 1396n(b)

The State of Michigan has opted to simultaneously utilize the authorities of the 1915(b) and 1915 (c) programs to provide a continuum of services to disabled and/or elderly populations. Under approval from the Centers for Medicare and Medicaid Services (CMS) the Department of Health and Human Services (DHHS) operates a section 1915(b) Medicaid Managed Specialty Services and Support program waiver in conjunction with a section 1915(c).

Medicaid beneficiaries are entitled to medically necessary Medicaid covered services for which they are eligible. Services must be provided in the appropriate scope,

duration, and intensity to reasonably achieve the purpose of the covered service. See *42 CFR 440.230*.

330.1156 Family support subsidy program; establishment; purpose.

Sec. 156 of the Michigan Mental Health Code states:

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.

Families may be eligible for the Family Support Subsidy if they meet the following criteria:

- The family resides in this state.
- The child's special education category is one of the following:
- Cognitive impairment (R340.1705), when the latest intellectual assessment shows development at a rate of 4.5 or more standard deviations below the mean
- Severely Multiple Impairment (R340.1714)
- Autism Spectrum disorder (R340.17150)

If the student is eligible under rule R340.1715, they must be receiving programming under one of the following:

- Programs for Students with Severe Cognitive impairment (R340.1738)
- Programs for Students with Severe Multiple Impairment (R340.1748)
- Programs for Students with Autism Spectrum disorder (R340.1758 (1)(a) or (b))
- Resource Room program (R340.1749 (a) or (b)) which meets the requirements for R340.1758 (1)(b)
- Early Childhood Special Education (ECSE) (R340.1758 (1)(b))
- ISD Plan Content Areas under rule R340.1832(e). Student is receiving special education services through an approved Intermediate School district (ISD) plan which also meets the requirements of R340.1758.
- The child resides, or is expected to reside, with his or her parent or legal guardian or, on a temporary basis, with another relative.
- The family is not receiving a medical subsidy for the child.

- The taxable income for the family for the year immediately preceding the date of application did not exceed \$60,000, 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

In the instant case, Petitioner's mother testified that at the time of the application, Petitioner was not in school and had not yet received his autistic spectrum diagnosis.

Evidence on the record indicates that ██████████ County Community Mental Health sent Petitioner's mother a letter which notified her that the Local Appeal was closed; indicating that information received from the school district indicated that at the time of application, Petitioner did not receive Special Education in one of the appropriate categories, and was therefore currently ineligible for the Family Support Subsidy. Petitioner may reapply for the Family support Subsidy if circumstances have changed.

CMH has established by the necessary competent, substantial and material evidence on the record that it was acting in accordance with Department policy, rules and regulations when it determined that Petitioner did not currently meet criteria to qualify for a Family Support Subsidy. Petitioner can file a new application for Family support Subsidy if circumstances have changed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH properly determined that Petitioner's application for Family Support subsidy should be denied under the circumstances.

IT IS THEREFORE ORDERED that

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

LL ██████



Landis Lain
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

Petitioner

[REDACTED]

DHHS -Dept Contact

[REDACTED]

DHHS Department Rep.

[REDACTED]