



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: July 16, 2018
MAHS Docket No.: 18-004891
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 11, 2018, from Lansing, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department or Respondent) was represented by Susan Engle, Hearings Facilitator.

Respondent's Exhibit A pages 1-36 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application for her child?

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 April 8, 2018, Petitioner applied for MA for herself and her child, RL.
2. On April 12, 2018, a Healthcare Determination Notice was sent to Petitioner explaining that MA for RL had been denied because RL was active on another case at Michigan Department of Health and Human Services.

3. RL is active for MA on her father's case with full coverage MA, and Food Assistance Program (FAP) benefits.
4. The MA benefit period for RL runs until July of 2018.
5. On March 29, 2018, Petitioner indicated in a telephone conversation that she was not having any access to care issues for RL.
6. On May 2, 2018, the Department received a request for hearing to contest the denial of MA for a RL.
7. The May 22, 2018 the Michigan Administrative Hearing System received a request for hearing, along with the hearing summary and attached documentation.
8. The hearing was held on July 11, 2018.
9. Petitioner conceded, on the record, that the child's father has full physical custody of RL and that RL resides with the father.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Pertinent Department Policy dictates:

The household for an individual who is a tax dependent of someone else, consists of:

- The individual's group consists of the parent who has a court order or binding separation, divorce, or custody agreement establishing physical custody controls, or
- If there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights. (BEM 211, page 2)

Determine the fiscal and asset groups separately for each person requesting MA. When referring to the group listings, remember:

- Only persons living with one another can be in the same group; see LIVING WITH.
- Certain persons cannot be fiscal or asset group members in SSI-related MA; see EXCLUDED PERSONS.
- There is no asset test for Group 2 Pregnant Women.

For all Group 2 MA categories, when a child lives with both parents who do not live with each other (for example, 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. 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.

Joint physical custody occurs when parents alternate taking responsibility for the child's day-to-day care and supervision. It may be included in a court order or may be an informal arrangement between parents. A child is considered to be living with only one parent in a joint custody arrangement. This parent is the primary caretaker. (BEM 211, page 5)

A dependent child can be temporarily absent from only one home. When a child spends time with two parents who do not live together, a primary caretaker must be determined. Scheduled vacations and visitation do not interrupt primary caretaker status. (BEM 211, page 7)

In this case, Petitioner concedes on the record that RL resides with the father. He has full physical custody of RL. Department policy dictates that the MA case for RL is properly opened under the father's name in this case.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department has established by the necessary competent, substantial, and material evidence on the record that it was acting in compliance with Department policy when it determined that RL's application for MA benefits must be denied because RL is already in receipt of full MA and FAP benefits on her father's case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LL/bb



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) 763-0155; 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 30639
Lansing, Michigan 48909-8139

DHHS

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI 48607

Saginaw County, DHHS

BSC2 via electronic mail

M. Best via electronic mail

EQADHS via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]