

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2008-15797
Issue No: 2000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 2, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 April 2, 2009.

ISSUE

Was a timely hearing request established (within 90 days)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds the below material/undisputed facts regarding the claimant:

- (1) Medicaid application on July 31, 2007 by [REDACTED], was approved in August 2007 with a spend-down per PEM 260.
- (2) Claimant wants retroactive benefits for April 2007.
- (3) On February 22, 2008 [REDACTED] requested a hearing for the retroactive benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by 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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Facts above are undisputed.

The department must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. 42 CFR 431.221.

The claimant had 90 days after the positive action approving the claimant for Medicaid, to request a hearing for non-approval of retroactive benefits. ██████ requested a hearing almost 7 months after the positive action.

██████ claims that it never received the positive action notice. ██████ did not offer its custodian of incoming mail to support this conclusion. Therefore, no evidentiary weight is given to it.

The claimant testified that after her application approval, she started receiving Medicaid benefits. This Administrative Law Judge does not know how ██████ could wait approximately 7 months after filing the claimant's application to investigate and/or talk to its client regarding disposition of the application.

This Administrative Law Judge is not persuaded by the preponderance of the evidence that ██████ has established a timely hearing request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that a timely hearing request was not established.

Accordingly, Medicaid hearing request is DISMISSED.

/s/

William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 13, 2009

Date Mailed: July 14, 2009

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 mailing date of the rehearing decision.

WAS/cv

cc:

