

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: 2008-17580
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2009
Allegan County DHS

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 upon claimant's request for a hearing. After due notice, a telephone conference hearing was held on February 10, 2009.

ISSUE

Did claimant file a timely hearing request?

FINDINGS OF FACT

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

(1) At all relevant times prior to the negative action herein, claimant was an MA recipient with the Michigan DHS.

(2) On 7/17/07, claimant was sent a Verification Checklist (DHS-3503) and a Verification of Employment form to obtain information regarding employment. The due date on the form was identified as 8/8/2007.

(3) The department did not have any communication or any verification received by the due date of 8/8/07.

(4) On 8/20/07, the DHS issued a computer-generated closure letter with a code of Y086--pending case closure due to failure to return the verification request. The computer-generated letter informed claimant that if he were to dispute the action he: "...may request a hearing within 90 days of the date of this notice..." Claimant's hearing request was made on the page of the closure notice containing claimant's hearing rights. Exhibit 1.

(5) On 3/28/08, claimant filed an untimely hearing request. Claimant's hearing request was over 7 months after the notice was issued to claimant.

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).

Prior to any substantive review, jurisdiction must be established. At the administrative hearing held in this matter, the department contested claimant's right to move forward on the substantive issue on the grounds that his hearing request was untimely and jurisdiction was improper to proceed on the substantive review.

Applicable law and policy to the case herein states in part:

The AHR, or if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. PAM, Item 600, p. 4.

A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).

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.

In this case, claimant argued that he should have been excused from complying with the law and policy regarding a timely hearing request on the grounds that he was in the hospital and sick. However, based upon claimant's representations at the administrative hearing, at the time the department requested the verifications claimant was not hospitalized.

A review of the facts in this case indicate that the department issued notice on 8/20/2007. Claimant was given actual notice of his hearing rights. Claimant, in fact, requested his hearing on the form which advises individuals of their rights and procedures for requesting a fair hearing. See Exhibit 1. Claimant did not file a hearing request until March 28, 2008--over 6 months after the notice of closure.

This Administrative Law Judge has reviewed the facts and the applicable policy and law. Claimant's hearing request was filed outside the jurisdictional window. Thus, based upon the above policy and law, this Administrative Law Judge has no jurisdiction to proceed with a substantive review of claimant's request and thus, the department's closure is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's closure is hereby UPHELD.

/s/

Janice G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 17, 2009

Date Mailed: March 17, 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.

JGS 

cc: 