

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimants

Reg. No: 2008-18823

Issue No: 6004

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 1, 2009

Adoption Subsidy

Lansing AH

ADMINISTRATIVE LAW JUDGE: Marlene B Magyar

ORDER OF DISMISSAL

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9; and MCL 400.37 upon claimants' request for a hearing. On August 25, 2009, a Notice of Hearing was mailed to claimants at [REDACTED]. The stated time and place of the hearing was October 1, 2009 in the [REDACTED] at 10:00 a.m.

At the time and place for this scheduled Adoption Subsidy Hearing, the undersigned Administrative Law Judge and the department's witnesses personally appeared; however, claimants failed to appear. At hearing, the department's witnesses presented evidence to verify the above-stated address is the correct address for claimants. Additionally, neither the adoption subsidy office nor the hearings office files contain any undeliverable mail (i. e., Notice of Hearing).

FINDING OF FACT

- (1) Claimants' filed a hearing request on May 19, 2005 (Department Exhibit G).
- (2) On May 23, 2008, the State Office of Administrative Hearings and Rules (the hearings office) mailed written notice to claimants at their address-of-record stating in relevant part:

It is provided in Michigan Administration Code R 400.904, that any hearing requested which protests a Department action under the Michigan Social Welfare Act must be filed within 90 days.

Therefore, the Administrative Law Judge will consider as the first issue at the hearing whether the appeal is timely for each issue raised in the hearing request. In the event that the Administrative Law Judge determines, after presentation of evidence and testimony, that the hearing request is not timely with regard to any issue raised therein, inquiry into the merits of that issue will not be made and the hearing request will be dismissed.

CONCLUSIONS OF LAW

At the threshold level, claimants' hearing request is DISMISSED pursuant to MAC R 400.906(2) for failure to appear.

Furthermore, the undisputed evidence of record clearly establishes claimants' request for hearing was untimely filed because R 400.904(4) provides that aggrieved parties must file a hearing request within 90 days of departmental action, which did not happen in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, decides claimants' hearing request must be DISMISSED based on failure to appear (default) and untimely filing (lack of jurisdiction). **SO ORDERED.**

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 2, 2009

Date Mailed: October 2, 2009

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

MBM/db

cc:

