

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS & RULES
FOR THE DEPARTMENT OF HUMAN SERVICES**

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IN THE MATTER OF:

SOAHR Docket No. 2009-7517 REHD

DHS Reg. No: 2008-24931

Case No: [REDACTED]

Load No: [REDACTED]

[REDACTED]

Claimant

_____ /

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Claimant.

ISSUE

Did the Administrative Law Judge err when he affirmed the Department of Human Services' refusal to process Claimant's application for retroactive Medical Assistance?

FINDINGS OF FACTS

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

1. On November 25, 2008, Administrative Law Judge William A. Sundquist issued a Hearing Decision in which he affirmed the Department of Human Services' (DHS) refusal to process Claimant's application for retroactive Medical Assistance (retro MA-P).
2. On January 15, 2009, SOAHR granted Claimant's request for reconsideration and issued an Order of Reconsideration.
3. On June 7, 2007, Claimant filed an application with DHS for retro MA-P.
4. On August 31, 2007, Claimant filed a second application with the DHS for retro MA-P.

5. On September 7, 2007, Claimant's original application was denied by DHS due to a failure to provide requested verification per PEM 225.
6. On December 28, 2007, Claimant submitted a third application for retro MA-P with DHS.
7. On March 5, 2008, Claimant's third application for retro MA-P was denied by DHS.
8. On May 20, 2008, Claimant's authorized representative, [REDACTED], Inc., requested a hearing on Claimant's behalf to prompt DHS to process the August 31, 2007 application, and to dispute the form of the 1150 Application Eligibility Notice sent to Claimant which denied her December 28, 2007, application.
9. Findings of Fact 1-9 (the entire Findings of Fact) from the Hearing Decision are hereby incorporated by reference.

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 Family Independence Agency (FIA or agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105; MSA 16.490 (15). Agency policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

The evidence presented shows that on June 7, 2007, Claimant filed an application for retro MA-P which was denied on September 7, 2007 by the Department of Human Services because of a failure to provide adequate documentation per PEM 225. However, in the interim, Claimant filed another application for retro MA-P on August 31, 2007.

This second application was never processed by DHS, but instead was disregarded as a pending duplicate of an application which was denied.

Agency policies regarding the processing of applications for Medical Assistance are found in the Program Administrative Manual (PAM). PAM 115, entitled Application Processing, provides in pertinent part:

DEPARTMENT POLICY

ALL PROGRAMS

Following registration of the application, you must do **all** of the following:

- Inform the client of the eligibility decision. PAM 220 explains the use of client notices.

Furthermore, PAM 220, entitled Case Actions, also provides:

DEPARTMENT POLICY

ALL PROGRAMS

You must process the following case actions:

- Initial applications and reapplication (PAM 115).
- Redeterminations (PAM 210).
- Reinstatements (PAM 205).

The relevant provisions of the Program Administrative Manual should be read to require that all applications, including duplicates, must be processed. Therefore, the ALJ erred in affirming the Department of Human Services' refusal to process Claimant's August 31, 2007 application for retro MA-P.

With regard to the 1150 Application Eligibility Notice (sent to Claimant on March 5, 2008 to deny the December 28, 2007 application); there is sufficient evidence that the notice was defective because it did not give any Manual Policy References.

PAM 600, entitled Hearings, provides in pertinent part:

NOTICE REQUIREMENTS

ALL PROGRAMS

The application forms and each written notice of case action inform clients of their right to a hearing. These include an explanation of how and where to file a request, and the right to be assisted by and represented by anyone the client chooses.

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The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action notice is completed it must specify all of the following:

- The action being taken by the department.
- The reason(s) for the action.
- The **specific manual item(s)** that cites the legal base for an action or the regulation, or law itself. See PAM 220.

In the instant case, the Application Eligibility Notice of March 5, 2008 was defective, per PAM 600, because it did not cite any specific manual item(s) as a basis for the action taken.

With respect to any issues of timeliness, Claimant's request for hearing of March 20, 2008, was within the 90 day limit given by PAM 600, as it pertains to December 28, 2007 Application Eligibility Notice.

Because no hearing was requested regarding the June 7, 2007 application which was denied on September 7, 2007, and the available window of time to request a hearing is now well passed, any attempt to request a hearing regarding that application would be untimely.

Because the August 31, 2007 application should have been processed but was not, the window of time during which Claimant may request a hearing has not yet begun as it relates to that application.

The 90 day timeframe for the August 31, 2007 application would begin upon written notice of an action by DHS.


DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Administrative Law Judge erred when he determined that the Department properly refused to process the Claimant's application.

IT IS THEREFORE ORDERED that:

The Administrative Law Judge's decision, dated November 25, 2008, is REVERSED.

The DHS shall process the Claimant's August 31, 2007 application.


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The DHS shall issue a written notice of approval or denial of Claimant's August 31, 2007 application.

The DHS shall issue a perfected written notice regarding Claimant's December 28, 2007 application.

/s/

Martin D. Snider
Administrative Law Judge
for Michigan Department of Human Services

Signed and mailed 8/27/09