

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: 2008-31022
Issue No: 2009; 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 27, 2009
Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 August 27, 2009, in Lapeer. Claimant did not appear at the hearing. Claimant was represented by [REDACTED].

The department was represented by Michael Horn (FIM).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department correctly deny claimant's MA-P/retro application because he failed to verify his disability and failed to attend his psychiatric evaluation scheduled for June 3, 2008, without good cause?

FINDINGS OF FACT

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

(1) On April 29, 2009, [REDACTED] filed an application for MA-P/retro on claimant's behalf.

(2) Claimant's medical evidence was submitted to the Medical Review Team (MRT).

(3) On May 15, 2009, MRT issued a deferral on the case and requested a psychiatric evaluation.

(4) On May 24, 2008, the caseworker sent claimant and [REDACTED] a notice of the psychiatric evaluation scheduled for June 3, 2008.

(5) Claimant failed to attend his psychiatric evaluation on June 3, 2008, as scheduled.

The reason provided for claimant's failure to appear is that he was incarcerated.

(6) On June 6, 2008, the caseworker sent claimant and [REDACTED] a Program Eligibility

Notice (denial) denying claimant's application for MA-P for the following reason:

Failure to attend the Drs appointment on June 3, 2008. DHS requested you attend not able to reschedule, as you are incarcerated. The notice cites Manual Policy in PEM 166 and 260.

(7) On August 26, 2008, the claimant filed a timely hearing request.

(8) Claimant thinks they are entitled to have claimant's case resubmitted to MRT

because they now have additional medical information.

(9) The department declined to resubmit the application based on the following policy:

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and you should deny the application or close the case. It is not necessary to return the medical evidence to MRT for another decision in this instance. PEM 260, page 4.

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).

The following policies apply to the issues raised by claimant:

VERIFICATIONS

ALL PROGRAMS

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. PAM 130 and PEM 707. Also, see PAM 105, page 8 and PEM 260/261.

Current department policy requires the recipient to cooperate with the local office in determining initial and ongoing MA-P/SDA eligibility. This concludes the completion of the necessary forms and a face-to-face meeting when requested. PAM 105. Cooperation also includes the requirement that recipients provide verification of their disability when requesting MA-P/SDA benefits. PEM 210, 212, 220, 260 and 261.

The preponderance of the evidence in the record shows that claimant failed to verify a disability that would entitle him MA-P benefits by the due date.

Also, MRT requested additional psychiatric information, and the local office, in furtherance of MRT's request for more medical information, scheduled the appointment with a psychiatrist on June 3, 2008. Claimant did not attend the appointment because he was incarcerated. Incarceration is not a good cause reason for failing to appear for an interview for a medical psychiatric examination requested by MRT.

Since claimant did not verify his disability in a timely fashion and did not appear for his state-paid psychiatric examination, the caseworker correctly denied claimant's MA-P application on June 6, 2008.

A careful review of the record reveals no evidence of arbitrary or capricious action by the local office in processing claimant's MA-P application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly requested additional psychiatric evidence to establish claimant's disability for MA-P purposes. Furthermore, claimant failed to comply with the department's request for a psychiatric examination on June 3, 2008. Claimant did not establish good cause for his failure to appear. Incarceration is not good cause.

Therefore, the action taken by the department is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 29, 2010

Date Mailed: March 30, 2010

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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JWS/tg

cc:

