

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

IN THE MATTER OF:

SOAHR Docket No. 2008-1043REHD

DHS Req. No: 2008-00080

Case No: [REDACTED]

Load No: [REDACTED]

[REDACTED]

Appellant

_____ /

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 24.287(1) and 1993 AACRS R 400.919 upon the request of the Claimant to reverse and vacate the dismissal signed by Administrative Law Judge Judith Ralston Ellison on November 5, 2007 in the above-captioned matter.

ISSUE

Did the Administrative Law Judge properly dismiss the Claimant's request for a hearing to determine Claimant's eligibility for Medical Assistance (MA-P) and Retroactive Medical Assistance (Retro MA-P) based on lack of substantial evidence of an application made in July 28, 2006?

FINDINGS OF FACTS

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

1. On November 5, 2007, ALJ Judith Ralston Ellison issued a Hearing Decision in which the ALJ dismissed the Claimant's request for a hearing.
2. The ALJ found that competent, material and substantial evidence on the whole record did not exist for determining the existence of an application dated July 28, 2006, for Medical Assistance and Retroactive Medical Assistance.
3. On December 5, 2007, the State Office of Administrative Hearings and Rules (SOAHR) for the Department of Human Services received a Request for Rehearing/Reconsideration submitted by the Claimant.

4. On January 30, 2008, SOAHR granted the Claimant's Request for Rehearing/Reconsideration and issued an Order for Reconsideration.
5. Claimant applied for Medical Assistance and Retroactive Medical assistance on July 28, 2006.
6. In September 2007, DHS received a copy of the front page of the application from the Claimant date stamped July 28, 2006, to verify the application.
7. On October 4, 2007, a copy of the front page of the application was mailed to SOAHR.
8. On November 21, 2006, Claimant requested a hearing contesting the Department's constructive denial of Claimant application for Medical Assistance and Retroactive Medical Assistance.
9. On December 19, 2006, DHS denied a medical assistance application made by the 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 Family Independence Agency (FIA or agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 4000.105; 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).

Under DHS policy Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The Department provides an administrative hearing to review the decision and determine its appropriateness. This item includes procedures to meet the minimum requirements for a fair hearing. PEM 600.

SOAHR may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

PEM 600

In the present case the ALJ determined that there was insufficient evidence to determine that there existed a Medical Assistance application of July 28, 2006. Absence evidence of an application, there could not be a denial, termination, reduction or delay in benefits by DHS on which to base a request for a hearing. The ALJ, therefore, dismissed the request for hearing concerning the denial of that application due to lack of jurisdiction.

This Administrative Law Judge finds that the ALJ erred in dismissing the hearing. While there may be a question regarding the existence of the application of July 28, 2006, that question is ripe for adjudication as are other issues involved in this matter that must be determined prior to adjudication of the issue of eligibility under the Medical Assistance program. There was evidence from the Claimant regarding the existence of the July 28, 2006, application. That evidence had been submitted prior to the hearing to DHS. There was evidence that DHS had denied an application of December 4, 2006, but since there was no evidence that an application was made at that time it could be argued that the denial was for the July 28, 2006 application.

In short, there was sufficient evidence presented to base a decision in this case on the issue of whether an application was made, and therefore the hearing should have been held. This case should be rescheduled and the medical evidence sent to the State Hearing Review Team (SHRT). At the hearing the ALJ should make a finding of fact regarding: 1) Whether an application of July 28, 2006 made? If not when, or if another MA application was made. 2) When the application was denied. 3) Whether the Claimant filed a timely request for hearing based on that denial. If it is determined that all jurisdictional requirements are met, the ALJ shall then make a determination of eligibility.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that the Administrative Law Judge erred when she dismissed the hearing scheduled for October 10, 2007.

IT IS THEREFORE ORDERED:

That the Administrative Law Judge's decision mailed November 5, 2007 regarding the request for a hearing is REVERSED.

[REDACTED]
SOAHR Docket No. 2008-1043REHD
DHS Req. No: 2008-00080
Reconsideration Decision

That SOAHR is to reschedule a hearing in the above captioned matter after the case is submitted to SHRT in accordance with this opinion.

/s/

Rhonda Craig
Administrative Law Judge
for Michigan Department of Human Services

cc:

[REDACTED]

Date Signed: May 5, 2009
Date Mailed: May 7, 2009

***** NOTICE *****

The Appellant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.