

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: 2008-10911

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 17, 2008

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Janice 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 hearing was held on April 17, 2008.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) application?

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 8/15/07, claimant applied for MA-P with the Michigan DHS.
- (2) Claimant did not apply for retro MA.
- (3) On 11/14/07, the MRT denied.

- (4) On 11/15/07, the DHS issued notice.
- (5) On 12/4/07, claimant filed a hearing request.
- (6) Claimant had an SSI case opened for several years since 1991, until April, 2006.

At that time, SSA closed claimant's case due to excess income. The department stipulated at the administrative hearing that it closed claimant's case in error. Claimant did not request a hearing. Claimant made no action until the application at issue herein--a new application for MA with an application date of 8/15/07.

(7) On 3/19/08, the State Hearing Review Team (SHRT) denied claimant due to insufficient information requesting a number of additional tests. Claimant agreed to have the additional tests completed at the administrative hearing.

(8) On 4/17/09, the local office informed the undersigned Administrative Law Judge that claimant was originally scheduled for the medical examination on 4/18/08. The appointment was changed to 5/2/08. Claimant did not attend the examination. The county said there was no further medical and the record closed.

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).

If an individual fails to cooperate by appearing for a physical or mental examination by a certain date without good cause, there will not be a finding of disability. 20 CFR 416.994(b)(4)(ii).

In this case, evidence indicates that claimant agreed to be evaluated pursuant to the recommendations issued in the SHRT denial of 3/19/08. The county scheduled claimant for an exam on 4/18/08, which was rescheduled to 5/2/08. Claimant failed to appear for the exam. Under 20 CFR 416.994, there is no finding of disability. In the alternative, claimant is denied due to insufficient information. Claimant has the burden of proof and failed to sustain his burden of proof. 20 CFR 416.912(c).

It is noted that this Decision and Order in no way affects any SSA decision which may have been rendered since claimant's case closed and/or continuing to the present.

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 determination in this matter is UPHELD.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 29, 2009

Date Mailed: May 29, 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.

JS/cv

cc:

