

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: 2008-23366

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 25, 2009

Gratiot County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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, an in-person hearing was held on June 25, 2009.

ISSUE

Does the ALJ have jurisdiction to conduct a second hearing on the same issue(s) already decided in a prior hearing?

FINDINGS OF FACT

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

(1) Negative action: Medicaid application in September 2007 was denied in October 21, 2007; on April 8, 2008, ALJ Sexton conducted a hearing and upheld the DHS in April 2008 based on excess assets.

(2) Negative action: Medicaid application on January 23, 2008 was denied on February 15, 2008 based on excess assets over \$2,000 per PEM 400/401.

(3) Claimant wants a second hearing based on the same assets on the basis that her representative has documentary evidence not introduced at the first hearing to show that assets ruled as countable by ALJ Sexton should not have been counted.

(4) The documentary evidence was available to the claimant's representative at the first hearing, but not available to the local DHS nor introduced at the first hearing.

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).

Facts above are undisputed.

Under the doctrine of *res judicata*, this ALJ has no legal authority to conduct a hearing on the same issue(s) already decided by ALJ Sexton. The missing documentary evidence should have been presented at Sexton's hearing.

This ALJ has not been authorized to conduct a rehearing/reconsideration of Sexton's D&O. The claimant's appeal should be why a rehearing/reconsideration or appeal to the Circuit County.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the ALJ has no jurisdiction to conduct a second hearing on same issue(s) already decided in a prior hearing.

Accordingly, hearing request is DISMISSED.

/s/ _____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 30, 2009

Date Mailed: July 31, 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 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.

WAS/tg

cc:

