

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: 2008-23858

Issue No: 2018; 2000

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 26, 2009

Iron County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, May 26, 2009. The claimant personally appeared and testified with his attorney, [REDACTED]

ISSUES

(1) Did the claimant or his authorized representative file a timely hearing request to dispute the denial of the claimant's Medical Assistance (MA) application?

(2) Did the department properly deny the claimant's application for Medical Assistance (MA)?

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 November 13, 2007, the claimant applied for Medical Assistance.

(Department Exhibit B1)

(2) On December 7, 2007, the department caseworker sent the claimant a notice that he was denied for MA because the claimant was not aged, blind, or disabled. (Department Exhibit C1)

(3) The department caseworker committed a department error because the claimant was not considered for the MA under 21 category where the claimant would have been eligible for assistance for October 2007.

(4) On March 28, 2008, the claimant gave [REDACTED] authorization to represent him. (Department Exhibit 7, 8)

(5) On April 18, 2008, the department sent [REDACTED] a letter of the December 7, 2007 denial letter.

(6) On June 12, 2008, [REDACTED] requested an administrative hearing on behalf of 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 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 claimant shall be provided reasonable time, not to exceed 90 days, in which to appeal a department action. 45 CFR 205.10.

Time period for requesting hearing. A household shall be allowed to request a hearing on any action by the State department or loss of benefits which occurred in the prior 90 days. Action by the State department shall include a denial of a request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, at any time within a certification period a household may request a fair hearing to dispute its current level of benefits. 7 CFR 273.15(g).

Under current department policy, the Administrative Law Judge has no authority to address substantial issues regarding department's actions unless determining when hearing request was filed. The department defines a timely hearing request to be a hearing request filed within 90 days of the negative action date. MAC R 400.902; MAC R 400.903; MAC R 400.904; PAM 600.

The hearing request was not filed until June 12, 2008 based on a December 7, 2007 denial, which is significantly past the 90-day required timeline. Based on the foregoing analysis, the Administrative Law Judge concludes that neither the claimant nor his representative filed a timely hearing request to challenge the department's decision to deny the claimant MA because he was not aged, blind, or disabled. In addition, [REDACTED] was not listed as an authorized representative until March 28, 2008, which is still past the 90-day time limit based on the December 7, 2007 denial.

The department's policy manuals provide the following relevant policy statements and instructions for caseworkers:

MA GROUP COMPOSITION

DEPARTMENT POLICY

LIF

Group composition policy for Low-Income Families (LIF) is in PEM 110. Do not use the policy in this item to determine group composition for LIF. PEM, Item 211, p. 1.

Even though the department is conceding that they made an error in not considering the claimant for the MA under 21 category, the department feels that they are prevented from determining eligibility based on the timeliness of the issue of the hearing request.

This Administrative Law Judge finds that the department has not established that it was acting in compliance with department policy when it determined that the claimant was not eligible for MA benefits based on his November 13, 2007 application. The claimant's date of birth was clearly marked on the application as [REDACTED]. The department is required to determine all categories of eligibility when claimants apply for benefits. It is not enough for the department to state that the timeliness of the hearing request is legally preventing the department from determining eligibility.

Therefore, the Administrative Law Judge finds that the department has not established that it was acting in compliance with department policy when it determined that the claimant's MA application was denied because he wasn't aged, blind, or disabled. The claimant was clearly eligible for MA under 21 benefits and should have been considered for that category when the claimant applied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly determined that the claimant was not eligible for MA benefits because he was not aged, blind, or disabled.

Accordingly, the department's decision is **REVERSED**. The department is ordered to determine the claimant's eligibility for Medical Assistance benefits retroactive to October 2007

based on his November 13, 2007 application to be considered for the MA under 21 category.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 22, 2009

Date Mailed: July 22, 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 receipt date of the rehearing decision.

CGF/vmc

cc:

