

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: 2008-27157

Issue No: 2009;4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 2, 2008

Wayne 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 December 2, 2008 in Detroit. [REDACTED]

[REDACTED]

The department was represented by Robin Stanford (Medical Contact Worker).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

- (1) Did claimant file a timely hearing request?
- (2) Did the department correctly deny claimant's August 1, 2007 application for MA-P/SDA benefits?

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 August 1, 2007, claimant applied for MA-P/SDA.

(2) On November 9, 2007, the Local Medical Review Team (LMRT) denied claimant's applications.

(3) On November 20, 2007, the department sent claimant a written notice (DSS-1150) informing him that his applications had been denied.

(4) On July 24, 2008, claimant requested a hearing.

(5) Claimant's hearing request was filed 206 days after the department issued its denial notice.

CONCLUSIONS OF LAW

ISSUE 1

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 State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For Medicaid purposes, this means that claimant had 90 days from

the date of the written denial notice (November 20, 2007) to request a hearing. PAM 600, MAC R 400.904(4). Claimant's timely hearing due date was March 18, 2008.

The preponderance of the evidence establishes that claimant's hearing request was received on July 24, 2008. Claimant's request for hearing was not received within the 90 days notice requirement, as required by the department's regulations.

Based on this analysis, the Administrative Law Judge finds that claimant's hearing request, dated July 24, 2008, is untimely.

ISSUE 2

Based on claimant's failure to file a timely hearing request, the Administrative Law Judge has no jurisdiction to reap the merits of claimant's eligibility for MA-P/SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant did not file a timely hearing request to challenge the denial of his MA-P/SDA benefits.

Accordingly, the department's action is, hereby, AFFIRMED. Claimant's hearing request is, hereby, DISMISSED.

SO ORDERED.

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

Date Signed: December 30, 2008

Date Mailed: January 5, 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.

JWS/vmc

[REDACTED]