

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: 2008-27810

Issue No: 2014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 28, 2009

Wayne 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.

ISSUE

Did claimant file a hearing withdrawal pursuant to her August 1, 2008 hearing request?

FINDINGS OF FACT

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

(1) Claimant filed a hearing request on August 1, 2008 stating: "Like to appeal. I have a hearing about the QMB. I am only over by a few dollars thank you."

(2) On 4/2/09, SOAHR scheduled an administrative hearing for claimant for a telephone hearing on April 28, 2009.

(3) At some point in time, an individual in SOAHR received a phone call from claimant and recorded the following memorandum to file: “Changed to three-way call. Client does not drive.”

(4) At 8:15 a.m. on April 28, 2009, the client called SOAHR indicating she was ready to proceed with her hearing.

(5) Claimant re-called the SOAHR office approximately 1 ½ hour later inquiring about the hearing. SOAHR informed claimant that SOAHR had an April 7, 2009 e-mail from the hearings coordinator in Wayne County which indicated that claimant had withdrawn her hearing in August, 2008. The undersigned Administrative Law Judge was not informed of the same.

(6) On April 7, 2009, SOAHR informed the county that claimant had elected to participate by phone rather than appear in person due to transportation issues.

(7) On April 28, 2008, at 5:00 p.m., the county worker in charge of claimant’s case called SOAHR to report that claimant was a “no show” for her 8:30 a.m. hearing.

(8) To date, SOAHR has not received a hearing withdrawal from the local office.

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 undersigned Administrative Law Judge is issuing this dismissal on behalf of claimant to protect claimant should claimant want her hearing reinstated. Claimant was ready to proceed with the hearing.

The department represented to SOAHR that claimant filed a hearing withdrawal. However, to date, no withdrawal has been received by SOAHR. Moreover, the individual who spoke with claimant on the phone on the date of the hearing stated that claimant was interested in making a complaint regarding the conduct of an employee. It is noted that claimant does not have a right to have the complaint regarding the conduct of an employee reviewed by an Administrative Law Judge pursuant to MAC R 400.903(5). However, claimant can file a complaint by issuing a written complaint to:

Michigan Department of Human Services
Office of Inquiry and Concerns
235 S Grand Avenue
P.O. Box 30037
Lansing, Michigan 48909

That office also responds to complaints via telephone: (517) 373-0707.

Claimant may also file a complaint with the director of the local office wherein her case is open.

Should claimant dispute the failure of Administrative Hearings to hold this hearing and for the county office's failure to appear, claimant should request an appeal within 30 days of the mailing of this decision and order as explained in the Notice section below.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department failed to appear for the administrative hearing on the grounds that the department represented that claimant had withdrawn her hearing request. However, the department failed to present a withdrawal to SOAHR. Thus, claimant is entitled to have her

hearing request reinstated should she request the same within 30 days from the date of the mailing of this Decision and Order. If claimant does not, her request shall be considered DISMISSED.

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

Date Signed: May 1, 2009

Date Mailed: May 4, 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:

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