

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: 2009-11771
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 21, 2009
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 April 21, 2009, in Redford. Claimant personally appeared and testified under oath.

The department was represented by Victoria Allen (ES).

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 MA-P/SDA application due to claimant's failure to establish a disability?

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 11, 2008, claimant applied for MA-P/SDA.

- (2) The department sent claimant's medical records to MRT for an evaluation.
- (3) On August 15, 2008, MRT denied claimant's application due to lack of severity and duration.
- (4) On August 26, 2008, the local office sent a denial notice (DHS-4598) to claimant.
- (5) On December 1, 2008, claimant requested a hearing.
- (6) The claimant's hearing request arrived in the local office 97 days after the negative action notice (DHS-4598) was mailed.

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).

ISSUE #1

The Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For MA-P/SDA purposes, this means that claimant had 90 days from the date the negative action notice (DHS-4598) was issued to request a hearing. PAM 600; MAC R 400.906(4).

Claimant's hearing request arrived at the local office 97 days after the notice was issued.

Since claimant did not file her hearing request on the MA-P/SDA denial within 90 days of the negative action notice (December 1, 2008), the Administrative Law Judge has no jurisdiction to consider the merits of this case at this time.

ISSUE #2

The Administrative Law Judge does not have jurisdiction to reach the merits of claimant's disputed MA-P/SDA denial as requested by claimant in her December 1, 2008 hearing request because the hearing request was not filed within the department's 90-day hearing request requirement.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that he has no jurisdiction to hear the merits of the issues raised by claimant's hearing request.

Therefore, the action taken by the department is, hereby, AFFIRMED.

SO ORDERED.

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

Date Signed: April 29, 2009

Date Mailed: April 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 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.

2009-11771/jws

JWS/tg

cc:

