

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: 2009-12114

Issue No: 6046

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 15, 2009

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 15, 2009. Claimant personally appeared and testified. He was assisted by

[REDACTED]

ISSUE

Did the department properly process claimant's January 21, 2009 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 was actively participating in substance abuse treatment at a residential facility in 2008; consequently, the department approved a monthly cash grant (SDA) for him pursuant to the following Michigan Law:

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).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals.

2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (c) A resident of an adult foster care facility, a home for the aged, a county infirmary, or a substance abuse treatment center.
- (d) A person receiving 30-day post-residential substance abuse treatment.

(2) Subsequently, the department closed claimant's SDA case in December 2008 because he no longer met the eligibility criteria set forth above.

(3) On December 3, 2008, claimant filed a timely hearing request to protest his SDA case closure.

(4) At that time, claimant also obtained assistance from [REDACTED], a third party liability assistance company.

(5) Claimant's SDA case closure hearing was held on December 15, 2009.

(6) Claimant's [REDACTED] advocate stipulated on the record at hearing the SDA case closure action was no longer at issue because, upon SDA case closure, claimant filed a disability-based MA/retro-MA/SDA application with [REDACTED] assistance.

(7) The department's local Medical Review Team (MRT) denied claimant's disability-based MA/retro-MA/SDA application on January 8, 2009; consequently, a timely hearing request was filed on January 21, 2009 to protest that denial.

(8) As of claimant's December 15, 2009 SDA hearing date, the local office had not provided the administrative hearings tribunal (SOAHR) with a Hearing Summary (DHS-3050), claimant's medical records, MRT's denial decision, or the denial notice they sent to claimant regarding the only remaining disputed issue, that being the department's denial of claimant's December 2008 MA/retro-MA/SDA application, as opposed to their SDA case closure action (See also Finding of Fact #6 above).

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 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).

Claimant's advocate () confirmed on the record at hearing the department's original SDA case closure is no longer in dispute. As such, that issue is hereby DISMISSED with prejudice.

However, the department committed procedural error by failing to follow even the rudimentary requirements set forth in BAM Item 600 with respect to claimant's January 21, 2009 hearing request. As such, the department's delay of action beyond the standard of promptness set forth in BAM Item 115 cannot be upheld and this case must be returned to the local office for immediate corrective action (See also BAM Item 600, pg 3).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in processing claimant's January 21, 2009 hearing request.

Accordingly, the department's action is REVERSED and this case is returned to the local office for immediate and correct hearings processing as set forth in BAM Item 600.

SO ORDERED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 29, 2009

Date Mailed: December 30, 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.

MBM/db

cc:

