

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: 2009-13256
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 19, 2009
Genesee 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. After due notice, an in-person hearing was scheduled for May 19, 2009.

ISSUE

Did the DHS properly propose to close claimant's MA-P and SDA at review of 11/08?

FINDINGS OF FACT

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

- (1) At all relevant times prior to the proposed negative action herein, claimant was an MA-P and SDA recipient with the Michigan DHS.
- (2) Claimant's case was scheduled for review on 10/22/08.
- (3) MRT denied continuing eligibility.
- (4) On 1/5/09, the DHS issued notice of closure.

(5) On 1/14/09, claimant filed a timely hearing request and the action was reinstated pending the outcome of the hearing.

(6) SOAHR scheduled a telephone hearing.

(7) Claimant was subsequently granted an adjournment on the basis of requesting an in-person hearing. During this time, claimant continued and continues to receive benefits.

(8) An in-person hearing was scheduled for 5/19/2009 in the Genesee County 06 district. At the date and time for the scheduled hearing, the undersigned Administrative Law Judge traveled and personally appeared and the department personally appeared for the hearing. Claimant did not appear and did not communicate any good cause reason for failing to show. The department is entitled to carry out its negative action.

CONCLUSIONS OF 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).

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).

Under MAC R 400.906, the department shall deny or dismiss a request for a hearing if a claimant fails to appear without good cause for the scheduled hearing.

This Administrative Law Judge finds that claimant has failed to appear for the administrative hearing. The action in this case was delayed due to the request for a hearing, the

scheduling of the telephone hearing, the adjournment request for an in-person hearing, and the failure of claimant to personally appear for the in-person hearing. This ALJ finds abandonment has occurred pursuant to Rule 400.906 and thus, the department is entitled to carry out its action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department shall carry out its proposed negative action as claimant abandoned the hearing pursuant to MAC R 400.906. Claimant's hearing request is hereby DISMISSED.

/s/

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

Date Signed: May 22, 2009

Date Mailed: May 26, 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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