

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: 2009-2350
Issue No: 2000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 22, 2009
Livingston 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 a request for a hearing filed by [REDACTED] and not claimant. After due notice, a telephone conference hearing was held on July 22, 2009. Claimant did not appear.

ISSUE

Is there jurisdiction to proceed with an administrative hearing where claimant has withdrawn the hearing request?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) On 1/29/08, [REDACTED] applied on behalf of claimant for MA and SDA with retro back to 10/07.
- (2) On 2/19/08, claimant's application was denied for "failure to provide verification."

(3) On 4/10/08, ██████ filed a hearing request due to having never received a verification checklist. As the department indicates on its hearing summary that it was unable to prove the same, the application was re-registered pursuant to ██████ request.

(4) On 5/13/08, claimants reapplied for Medicaid by themselves and on behalf of themselves without ██████ involvement.

(5) On 5/14/08, the 1/29/08 application was again denied for “failure to provide verification including ID.” Unrefuted evidence is that ██████ received a copy of the denial notice.

(6) On 5/29/08, claimants requested a hearing by themselves, without indicating on the hearing request that ██████ was representing them and without requesting their presence. The hearing summary states: “At the prehearing conference, the identity policy was explained and a copy of PEM 221, page 2 was given to them showing the list of acceptable documents that could be provided to verify identity. They withdrew.”

(7) On 6/26/08, the DHS denied claimant’s subsequent reapplication of 5/13/08 for “failure to verify identify.”

(8) On 9/25/08, the local office received a second hearing request filed by ██████ over four months after the denial notice on the 1/29/08 application. (See Finding of Fact #5 above.)

(9) On October 27, 2008, Supervisory Administrative Law Judge Martin Snider issued a letter to claimant indicating that the first issue at the administrative hearing may have to do with jurisdiction as it did not appear that there is a timely hearing request.

(10) Claimant was not present at the administrative hearing. His whereabouts are unknown.

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).

Administrative Law Judges conducting hearings on DHS hearings do not normally make rulings with regard to the outcome at the administrative hearing. The decisions are subject to subsequent review and issued after the hearing.

Pursuant to a subsequent review by the undersigned Administrative Law Judge, this Administrative Law Judge has determined that with regards to the 1/29/08 application, claimant requested a hearing on 5/29/08 and withdrew the hearing request. Claimant's hearing request of 5/29/08 did apply only to the 1/29/08 application as the subsequent 5/13/08 application had not yet been denied (it was subsequently denied on 6/28/08). Thus, the hearing request filed by claimant on 5/29/08 was timely with regards to notice issued on 5/14/08 as to claimant's January 29, 2008 application. Unrefuted evidence on the record is that [REDACTED] received a copy of the 5/14/08 denial letter.

In this case, claimant requested a hearing on 5/29/08 pursuant to the 1/29/08 MA application without identifying [REDACTED] as a representative or evidently without contacting [REDACTED] to represent him. This ALJ finds that the policy with regards to withdrawing in writing was met by the hearing request filed by claimant that was in writing and failed to include [REDACTED] as a representative.

Unrefuted evidence on the record is that claimant withdrew his hearing request at the prehearing conference. There is no jurisdiction for an Administrative Law Judge to proceed with a

hearing where a claimant did not indicate in writing that he had a representative, and withdrew his hearing request. Moreover, at the administrative hearing, claimant was a “did not appear” and the purported representative had no information or knowledge about his whereabouts. There was no personal testimony from claimant with regards to the filing and withdrawing of his hearing request.

For these reasons, and for the reasons stated above, this ALJ finds that there is no jurisdiction to proceed with a hearing request filed by [REDACTED] on 9/25/08 pursuant to a 5/14/08 notice of denial which was withdraw by claimant on 5/29/08. The [REDACTED] request is dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that there is no jurisdiction to proceed by the undersigned Administrative Law Judge on an 9/25/08 hearing request filed by [REDACTED] on a 5/14/08 denial for which claimant had previously withdrawn.

Thus, [REDACTED] hearing request on a matter already withdrawn is DISMISSED.

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

Date Signed: August 17, 2009

Date Mailed: August 18, 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.

2009-2350/JS

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cc:

