

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: 2009-34253
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 30, 2009
Marquette 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 September 30, 2009, in Marquette. Claimant did not appear at the hearing.

The department was represented by Dale Schneider (Program Manager).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

(1) Did claimant file a timely hearing request to dispute the department's refusal to provide MA-P coverage for May, June, July 2007?

(2) Did the claimant establish MA-P eligibility for the months of May, June, July 2007 based on a timely application?

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 is a former MA-P recipient. Claimant received MA-N in March 2007. Claimant received MA-P in October 2007.

(2) The department did not receive an MA-P application from claimant for May 2007. There is no record of a May 2007 application on the department's computer (SIMS).

(3) The March 12, 2009, [REDACTED] requested a hearing based on the department's failure to pay claimant's hospital bills for May, June, and July 2007.

(4) The March 12, 2009 hearing request was not filed within 90 days of the 2007 negative action. [REDACTED] is disputing an alleged negative action in 2007 (MA-P closure). They filed a hearing request approximately two years later (2009).

(5) On September 8, 2009, Program Manager Dale Schneider notified the parties that the first issue reported the undersigned ALJ would be whether or not claimant filed a timely hearing request, as required by department policy.

CONCLUSIONS OF LAW

ISSUE #1

Current departmental policy requires that claimants who wish to dispute the amount of benefits that have been issued must file a timely hearing request.

A timely hearing request is defined as a hearing request which is filed within 90 days of the date that eligibility was officially denied by the department.

The Administrative Law Judge has jurisdiction to hold the hearings only on issues which are contested in a timely fashion, in accordance with department rules.

For MA-P purposes, this means that claimant had 90 days from the date of a negative action to request a hearing. PAM 600; MAC R 400.906(4).

The preponderance of the evidence in the record establishes that claimant did not timely contest an alleged MA-P denial for benefits in May, June and July 2007.

Since claimant did not file a timely hearing request, the Administrative Law Judge has no jurisdiction to consider the merits of this case.

ISSUE #2

The Administrative Law Judge does not reach the merits of this matter because claimant did not establish that she filed a timely hearing request.

There is no evidence based on the record of an arbitrary or capricious action on behalf of the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that he does not have jurisdiction to hear the merits of claimant's 2007 MA-P dispute raised by the hearing request filed on March 12, 2009.

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: 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.

JWS/tg

cc:

