

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: 2009-36638
Issue No: 2000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 28, 2010
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 28, 2010.

ISSUE

Was hearing request timely (over 90 days)?

FINDINGS OF FACT

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

(1) Negative case action: MA change on April 30, 2009 to a "deductible" of \$514/month per BEM 500 and PRT 240.

(2) On August 6, 2009 the claimant requested a hearing

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).

Facts above are undisputed.

The AHR, or if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. PAM, Item 600, p. 4.

The claimant testified that he never received the negative case action notice by mail. The claimant admitted that the DHS used his correct mailing address for the mailing of the negative case action notice.

The DHS representative testified to a computer generated notice that had replaced the old conventional send out from the local DHS. She testified that information of the claimant's name and address and negative action information is transferred to central office in Lansing for mailing purposes to clients; that she has had training in the system; and that if a letter is returned as undeliverable by the US postal authority it is returned to the local DHS for filing; and that no envelope was returned.

She further testified that the new system is a replacement of the old system: Caseworker prepares notices by hand and places them in an envelope with the clients name and address; that thereafter the envelopes are placed in a drop site within the office for transfer to the mail-room for postage stamping and transfer to the US postal authority for delivery to clients.

This ALJ finds the mailing process used by the DHS more trustworthy and reliable than the claimant's statement that he did not receive the negative case action notice, and finds an untimely hearing request

Therefore, this ALJ had no legal authority to conduct an untimely administrative hearing in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that hearing request was untimely (over 90 days).

Accordingly, Medicaid changed to a deductible is UPHELD.

/s/

William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 20, 2010

Date Mailed: June 3, 2010

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.

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