

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: 2009-9899
Issue No: 2000; 4000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 15, 2009
Macomb 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 October 15, 2009.

ISSUE

Was timely hearing request established?

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: Medicaid/SDA application on October 20, 2006 was denied on July 20, 2007 based on noncompliance with timely verification requirements per PAM 600.
- (2) On June 12, 2007, the DHS mailed a Verification Checklist to both the claimant and his representative, [REDACTED], at their mail-addresses with a return due date of June 22, 2007; they were not submitted by the due date.

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(3) On July 20, 2007, the DHS mailed notification to the claimant and [REDACTED] of the negative case action mentioned above.

(4) Hearing request was submitted by a different [REDACTED] representative on October 7, 2008.

(5) A different [REDACTED] representative of six weeks' employment with [REDACTED] represented the claimant at the hearing on October 15, 2009, who was not familiar with [REDACTED] mail intake procedure.

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).

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.

A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).

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█ claims that it did not receive the negative case action notice mailed by the DHS on July 20, 2007—not until six weeks before the hearing on October 15, 2009; over two years ago. He had no proofs in support of his conclusions that █ did not receive the denial notice.

On the other hand, the DHS representative testified under oath to a seven-year step-by-step process she used in mailing the denial notices to █ and the claimant: She prepared the window envelope with their addresses on the denial notices, delivered them to the DHS-mailroom for U.S. Postal meter stamping, and daily pick-up by the postal authority for delivery to █ and the claimant.

Also, the DHS representative testified that when an envelope is undeliverable by the U.S. Postal Authority, it is returned to the DHS and placed in a claimant's file. The DHS representative said she searched the claimant's file before the hearing and the envelope was not in the file as undeliverable.

The █ representative admitted that the DHS representative used the correct mailing addresses on the envelopes.

This ALJ finds the DHS mailing procedure more trustworthy and reliable than the bare conclusions by █ that it did not receive the mailed notice, and finds noncompliance by the claimant and █ with timely verification requirements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that timely hearing request was not established.

Accordingly, Medicaid/SDA denial is UPHeld, and hearing request is DISMISSED.

/s/

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

Date Signed: November 2, 2009

Date Mailed: November 2, 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.

WAS/tg

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