

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: 2009-16308
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 27, 2010
Kent 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 January 27, 2010, in Grand Rapids. Claimant did not appear for the hearing. Claimant was represented at the hearing by her [REDACTED].

The department was represented by James Geisen (FIM).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

- (1) Did claimant file a timely hearing request?
- (2) Did the department correctly deny claimant's MA-P application due to claimant's failure to report for her state paid medical exam and to provide all necessary evidence of eligibility?

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 an MA-P/SDA applicant.
- (2) The Medical Review Team (MRT) requested a recent physical examination to determine eligibility.
- (3) The caseworker scheduled an appointment with an internist for claimant.
- (4) Claimant did not report to her doctor's appointment, as directed.
- (5) On May 30, 2008, the caseworker denied claimant's application because she failed to provide a recent internal medicine exam, as ordered by MRT.
- (6) On May 30, 2008, a written denial notice (DHS-1150) was mailed to claimant.
- (7) The denial notice was not returned by the United States Post Office.
- (8) The 90-day hearing request rule was explained on the negative action notice.
- (9) Claimant filed a hearing request to challenge the MA-P/SDA denial on December 15, 2008. Claimant's hearing request was filed 204 days after the denial notice was issued by the caseworker.
- (10) Claimant's hearing request was not timely filed.

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).

ISSUE #1

The Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For MA-P/SDA purposes, this means that claimant had 90 days from the date the written negative action notice (May 30, 2008) was issued. PAM 600; MAC R 400.906.

Since claimant did not file her hearing request on the MA-P/SDA denial within 90 days of the negative action notice (May 30, 2008), the Administrative Law Judge has no jurisdiction to hold a hearing on MA-P/SDA eligibility at this time.

ISSUE #2

The Administrative Law Judge does not have jurisdiction to reach the merits of the MA-P/SDA denial issue raised by claimant in her hearing request because she did not file her hearing request within the 90-day time limit.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that he has no jurisdiction to hear the merits of claimant's disability denial, at this time.

Therefore, the action taken by the department is, hereby, AFFIRMED.

Claimant's hearing request is, hereby, DISMISSED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 17, 2010

Date Mailed: May 18, 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.

JWS/tg

cc:

