

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: 2009-19423

Issue No: 2009/4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 1, 2009

Cass County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 July 1, 2009. Claimant personally appeared.

ISSUE

Shall claimant's hearing request be dismissed with prejudice?

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 applied for MA/SDA on February 10, 2009.
- (2) The denial of that application led claimant to file a hearing request dated March 26, 2009.
- (3) Claimant's hearing was initiated by telephone conference on July 1, 2009.
- (4) Claimant appeared at the hearing in a highly inebriated state.

(5) Claimant inadvertently disconnected the telephone, then became highly agitated and began using profanity in the contested case hearing room.

(6) Claimant's behavior was such that the department's witness deemed the only prudent course of action was to escort claimant out of the building because he was not capable of competent participation, and also, building security issues were of chief concern.

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).

This matter is before the undersigned Administrative Law Judge by the authority of MCL 400.9 and MCL 400.37 upon claimant's request for a hearing.

Section 80 of the Michigan Administration Procedures Act (MAPA) at 24.280 sets forth a presiding Administrative Law Judge's powers, which include regulation of the contested case process, as does Administrative Rule 400.911. This law and its conjunctive administrative rule a

provide that a dismissal of the hearing may be entered in the event of abandonment.

MAPA 24.27 (Section 72); AR 400.906.

This Administrative Law Judge finds the above-referenced facts constitute abandonment by claimant as he failed to appear competent on the hearing day and exhibited disruptive behavior of a degree to which the hearing could not proceed. As such, claimant's hearing must be dismissed with prejudice. Claimant may file another MA/SDA application at any time, if he so chooses. However, his disputed application must remain denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides claimant's hearing request is **DISMISSED** with prejudice. **SO ORDERED.**

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 2, 2009

Date Mailed: July 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.

2009-19423/mbm

MBM/db

cc:

