

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg No: 2009-20290
Issue No: 2012
Case No: ██████████
Load No: ██████████
Hearing Date:
July 1, 2009
Wayne County DHS Dist #41

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on July 1, 2009. The Claimant appeared and testified. Betty McBride, MCW appeared on behalf of the Department.

ISSUE

Whether the Claimant's hearing request filed on 3/9/09 was timely?

FINDINGS OF FACT

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

1. Claimant applied for disability based Medicaid on September 16, 2008 requesting retroactive Medicaid to August 2008.

2. Claimant was denied by MRT on 12/3/08 (Exhibit 1) and was notified of the decision by mail on 12/5/08. (Exhibit 2).
3. Claimant testified that he never received the notice of denial.
4. Claimant testified that the notice of denial was properly addressed to his mailing address.
5. The Department forward Claimant a copy of the denial notice as a courtesy to Claimant. Claimant testified that he received the denial notice at the end of January 2009.
6. Claimant filed a request for a hearing which was received by the Department on March 9, 2009.

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, formally known as the Family Independence Agency, 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 goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105, p. 1. Medicaid is also known as Medical Assistance (“MA”). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an

SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

Requests for a hearing must be made in writing and signed by the Claimant or his authorized representative. (PAM 600, p. 2). A claimant has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. (PAM 600, p. 4). The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich. App. 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich. App. 270 (1976).

In the subject case, the Department sent out a notice of denial on 12/5/09 which was properly addressed to Claimant's mailing address. This creates a presumption of receipt. Claimant did not provide any evidence to support why he would not have received the notice. The Department sent Claimant a copy of the notice as a courtesy, but this does not change the requirement that a request for hearing be filed within 90 days of the negative action. Claimant testified that he was under the assumption that he had 90 days from the date that he received the notice. However, the regulation indicates that the request for hearing must be received within 90 days from the date of the written notice. Accordingly, Claimant's hearing request was untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of facts and conclusions of law, finds that the Claimant did not timely file a hearing request for the Department's failure

to process Claimant's MA application. The Department's denial of benefits, therefore, is
AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/08/09

Date Mailed: 07/08/09

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 mailing 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.

JV/dj

cc:

