

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

By:

[REDACTED]

[REDACTED]

Reg. No: 2009-27883

Issue No: 2000

Case No:

[REDACTED]

Load No:

[REDACTED]

Hearing Date:

November 5, 2009

Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 hearing was held on November 5, 2009.

ISSUE

Is there jurisdiction to proceed where claimant's counsel filed a hearing request withdrawal?

FINDINGS OF FACT

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

- (1) On 12/12/08, claimant applied for LTC MA.
- (2) On 4/29/09, the DHS denied for the following reason: "You failed to provide the department with information necessary to determine eligibility." Claimant Exhibit 8.2.
- (3) On June 5, 2009, claimant's attorney filed a hearing request.
- (4) On June 17, 2009, counsel signed a Hearing Request Withdrawal (DHS-18A) stating on behalf of claimant: "I do not want a hearing... I now understand the action taken by the DHS was correct."

- (5) On 10/16/09, SOAHR scheduled this case for a hearing on November 5, 2009.
- (6) On June 22, 2009, claimant reapplied.

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).

Applicable authority to the issue herein states in part:

MAC R 400.906. Denial or dismissal of request for hearing.

Rule 906. (1) The department shall deny or dismiss the request for a hearing if:

- (a) a request is withdrawn by a claimant, counsel, or petitioner in writing prior to the signing of the final decision and order. ...

In this case, counsel withdrew the hearing request on behalf of claimant on June 17, 2009.

Under MAC R 400.906, claimant's hearing request is dismissed.

DECISION AND ORDER

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

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 9, 2009

Date Mailed: November 10, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

JS/cv

cc:

