

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: 2009-6322

Issue No: 2000; 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 18, 2009

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, August 18, 2009. The claimant was not present, but was represented by his authorized representative, [REDACTED]

ISSUES

- (1) Did the claimant or his authorized representative file a timely hearing request to dispute the denial of his Medical Assistance (MA) application?
- (2) Did the department properly deny the claimant's application for MA benefits?

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 September 7, 2007, the claimant applied for MA benefits, but stated that he was not disabled.

(2) On September 21, 2007, the department denied the claimant for the Adult Medical Program (AMP) because the program was not open at that time. MA was never considered because the box was checked that he was not disabled on his application. (Department Exhibit 178)

(3) On September 21, 2007, the department caseworker denied the claimant for AMP and sent a denial notice, but the claimant was never considered for MA because the box was checked that he was not disabled on his application. (Department Exhibit 178)

(4) The claimant was approved for Social Security SSI benefits in [REDACTED], which made him eligible for retroactive MA to July 2007.

(5) On November 3, 2008, the department received a hearing request from the claimant's representative contesting the department's negative action.

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 department's manuals provide the following relevant policy statements and instructions for caseworkers:

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).

The claimant shall be provided reasonable time, not to exceed 90 days, in which to appeal a department action. 45 CFR 205.10.

Time period for requesting hearing. A household shall be allowed to request a hearing on any action by the State department or loss of benefits which occurred in the prior 90 days. Action by the State department shall include a denial of a request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, at any time within a certification period a household may request a fair hearing to dispute its current level of benefits. 7 CFR 273.15(g).

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

Under current department policy, the Administrative Law Judge has no authority to address substantial issues regarding the department's action unless a timely hearing request was filed. The department defines a timely hearing request to be a hearing request filed within 90 days of the negative action date. MAC R 400.902; MAC R 400.903; MAC R 400.904; PAM 600.

The department received the claimant's authorized representative's hearing request on November 3, 2008, which was significantly past the 90 day time limit of a denial notice that was mailed September 21, 2007. Based on the foregoing analysis, the Administrative Law Judge concludes that the claimant's authorized representative did not file a timely hearing request to challenge the department's decision to deny the claimant's MA application.

However, this Administrative Law Judge will note that when the claimant's application was submitted on September 4, 2007 that the box for being disabled was not checked, but instead the box for not disabled was checked, which would require the department to only consider the claimant for the AMP program. The AMP program was closed to new applicants the month of September 2007. As a result, the claimant was sent a denial notice for the AMP program on September 21, 2007. The claimant would only be considered for the MA program, if the box for disabled was checked. An application for MA requires that the box for disabled on the application is checked.

Therefore, the Administrative Law Judge finds that the department has established that it was acting in compliance with department policy when a determination was made that the claimant was not eligible for AMP benefits because the program was closed and MA benefits because the box for disabled was not checked on the application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant was not eligible for AMP because the program was closed to new applicants and MA benefits because the application did claim that the claimant was not disabled. In addition, the claimant's authorized representative's hearing request was not timely.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 28, 2009

Date Mailed: August 28, 2009

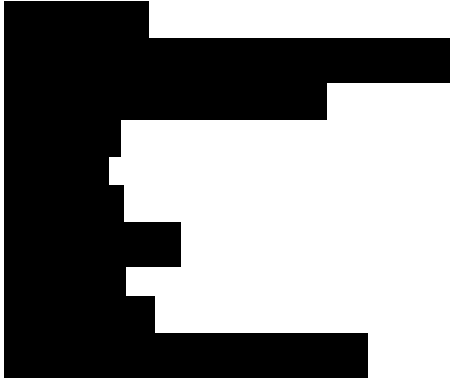
NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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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.

CGF/vmc

cc:

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