

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: 2009-9910

Issue No: 2000; 2007

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 6, 2010

Jackson 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 three-way telephone hearing was held on Wednesday, January 6, 2010. The claimant was not present, but was represented by his authorized representative, [REDACTED]

ISSUES

- (1) Did the claimant's authorized hearing representative file a timely hearing request to dispute the denial of the claimant's 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 November 14, 2007, [REDACTED]. filed a MA application for the claimant with retroactive MA to August 2007.

(2) On November 29, 2007, the department caseworker sent the claimant and [REDACTED] a denial notice stating that the claimant withdrew his application for MA dated November 14, 2007. (Department Exhibit 3-4)

(3) On December 4, 2008, [REDACTED]. filed a hearing request contesting the department's negative action.

(4) During the hearing, the Family Independence Manager (FIM) submitted the fax confirmation report verifying that the three pages were faxed with an "OK" to [REDACTED] on January 23, 2008. (Department Exhibit 2)

(5) During the hearing, the FIM stated that the claimant's wife withdrew his MA application because he was back to work and intended to pay his hospital bills on his own.

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 program eligibility 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).

In the instant case, [REDACTED] filed an application for MA on behalf of the claimant dated November 14, 2007 with retroactive benefits to August 2007. Subsequently, the claimant withdrew his application because he was back at work and would be able to pay his hospital bills. On November 29, 2007, the department caseworker sent the claimant a denial notice that MA was denied because the claimant withdrew the application. During the hearing, the department caseworker sent proof that the denial of eligibility was faxed to [REDACTED] on January 23, 2008 with a faxed confirmation receipt that the fax was received. The claimant filed a hearing request nearly ten (10) months after the receipt of a faxed copy of the denial notice dated January 23, 2008. The request for hearing was not filed until December 4, 2008.

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 accept the withdrawal of the claimant's application.

However, this Administrative Law Judge will note that the claimant did withdraw his application, which is within his right to do so. He stated that he was back at work and would be able to pay his hospital bills. Therefore, the Administrative Law Judge must find that the department has established that it was acting in compliance with department policy when the determination was made that the claimant was not eligible for MA because his application was withdrawn, and the claimant's authorized representative did not file a timely hearing request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department appropriately denied the claimant's MA application because of the claimant's withdrawal. 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: January 14, 2010

Date Mailed: January 14, 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 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:

A large black rectangular redaction box covering several lines of text in the distribution list.