

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: 2010-11657

Issue No: 2024

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 18, 2010

Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 May 18, 2010. She was represented at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance Benefits based upon its' determination that it was unable to locate claimant and that claimant was not living in the state of Michigan?

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 was living in the home of [REDACTED]
- (2) He was an active member of [REDACTED] Food Assistance Program case.

(3) [REDACTED] reported to the department the claimant no longer resided in her household and that he had returned to North Carolina.

(4) On June 3, 2009, the caseworker removed claimant from [REDACTED] Food Assistance Program case.

(5) On June 24, 2009, the worker closed claimant's Adult Medical Program case as he had left the state and moved to North Carolina.

(6) On May 28, 2009, [REDACTED] filed an application on claimant's behalf for Medical Assistance benefits alleging disability.

(7) On July 29, 2009, [REDACTED] faxed to the local office a request for the status of claimant's Medical Assistance application.

(8) The worker faxed back the same form with the notation of the application was denied because the claimant moved to North Carolina soon after applying and was not a resident of the state of Michigan.

(9) A notice that claimant's Adult Medical Program (AMP) and Food Assistance Program case were cancelled was sent to [REDACTED] and the claimant on June 24, 2009.

(10) On October 13, 2009, [REDACTED] filed a request for a hearing to contest the department's negative action.

(11) [REDACTED] conceded that they had no contact with the claimant at anytime relevant to the application and that they could not establish that he was residing in the state of Michigan. [REDACTED] also conceded that they should have withdrawn from the hearing.

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 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.

The department must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. 42 CFR 431.221.

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).

Final SSI Disability Determination

SSA's determination that disability or blindness does **not** exist for SSI purposes is **final** for MA if:

- . The determination was made after 1/1/90, **and**
- . No further appeals may be made at SSA, **or**
- . The client failed to file an appeal at any step within SSA's 60-day limit, **and**
- . The client is **not** claiming:

- .. A totally different disabling condition than the condition SSA based its determination on, **or**
- .. An additional impairment(s) or change or deterioration in his condition that SSA has **not** made a determination on.

Eligibility for MA based on disability or blindness does **not** exist once SSA's determination is **final**. PEM, Item 260, pp. 2-3.

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280.

To be eligible for any program under the Department of Human Services, a person must be a Michigan resident. BRIDGES uses the requirements in the residents section to decide if the person is a Michigan resident. A person is a resident if he:

- Is not receiving assistance from another State, and
- Is living in Michigan except for a temporary absence, and
- Intends to remain in the state permanently or indefinitely.
BEM, Item 220, p. 1.

The department caseworker testified on the record that he spoke to [REDACTED] who told him that claimant had returned to North Carolina and they also at a later date spoke to claimant who informed him that he had moved back to North Carolina.

This Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance benefits, based upon its' determination that claimant was not a resident of the state of Michigan and had returned to North Carolina permanently.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department appropriately determined that claimant's Medical Assistance benefit application should be denied based upon its' determination that claimant was not a resident of the state of Michigan is thus not eligible to receive benefits in the state of Michigan.

Accordingly, the department's decision is AFFIRMED.

/s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 23, 2010

Date Mailed: May 25, 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.

LYL/alc

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