

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: 2010-14643

Case No: [REDACTED]
Load No: [REDACTED]
Remand Hearing Date:
March 2, 2010
Original Hearing Date:
August 6, 2008
Branch County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

REMAND HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and MAC R 400.919 upon the Order and Notice for Remand Hearing issued by Rhonda Craig, Administrative Law Manager on February 8, 2010. After due notice, an in-person Remand Hearing was held on March 2, 2010, in Coldwater. Claimant did not appear. Claimant was represented by [REDACTED]. Additional testimony was taken and incorporated to the record.

The department was represented by Jamie Bauerly (FIM) and Andrea Carr (ES).

The following Remand Decision is based on the entire record, including the testimony taken at the original hearing on August 6, 2008 and the additional sworn testimony taken on March 2, 2010.

ISSUES

- (1) Did claimant file a timely Remand Hearing request?
- (2) Given claimant's eligibility for SSI (onset date: October 26, 2007), did the department commit reversible error (BEM 105 and BAM 115) by denying claimant retro MA-P coverage (August and September 2007)?

FINDINGS OF FACT

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

- (1) The December 11, 2009 Decision and Order is, hereby, incorporated by reference. The original Decision and Order denied claimant MA-P coverage for the months in question because claimant did not establish eligibility under the disability standards mandated by BEM 260.
- (2) The January 12, 2009, Social Services Administration, Supplemental Security Income, Notice of Award is, hereby, incorporated by reference. The Social Security decision approved claimant for SSI benefits and onset date of October 26, 2007.
- (3) Claimant requested MA-P retro coverage for the retro months August and September 2007 based on BEM 150, page 1/8 and BAM 115, pages 8-10/26.
- (4) The department denied claimant's request for retro MA-P for August and September 2007 due to claimant's failure to establish the required medical and nonmedical eligibility factors under BEM 260.

(5) The department denied claimant's request for retro coverage for August and September 2007, under BEM 150 and BAM 115 because the policy is permissive and incorporates PEM 260 standards as well as nonfinancial eligibility standards, which claimant failed to meet.

(6) The December 11, 2009 Decision and Order contained the following notice on page 11:

* * *

Date Signed: December 11, 2009

Date Mailed: December 11, 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.

(7) Claimant's request for a Rehearing is dated January 11, 2009. It was received 31 days after the Decision and Order was mailed.

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).

ISSUE #1

The Administrative Law Judge has jurisdiction to hold hearings only under which are contested in a timely fashion. For MA-P purposes, this means that claimant had 30 days from the date the Decision and Order was mailed (December 11, 2009) was issued. BAM 600, MAC R 400.906.

Claimant's request for a Remand Hearing was received by Administrative Hearings on January 11, 2010. The request was received 31 days after the Decision and Order was mailed.

Since claimant did not file his Request for a Remand Hearing within the required 30-day time period, the Administrative Law Judge has no jurisdiction to hold a hearing on MA-P/retro eligibility.

ISSUE #2

The Administrative Law Judge has no jurisdiction to reach the merits of claimant's retro MA-P eligibility, pursuant to BEM 150 and BAM 115.

The Administrative Law Judge has no jurisdiction to hold a hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that he has no jurisdiction to hear the merits of claimant's retro MA-P issues raised at the Remand Hearing.

Therefore, the action taken by the department is, hereby, **AFFIRMED**.

Claimant's Remand Hearing request is, hereby, **DISMISSED**.

SO ORDERED.

/S/

Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 18, 2010

Date Mailed: May 18, 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 receipt 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.

JWS/tg

cc:

