

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: 2010-24155
Issue No: 6000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 1, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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, an in-person hearing was held on April 1, 2010, in Flint (Pierson Road). Claimant appeared and testified under oath.

The department was represented by Latoi Jones (ES)

ISSUES

- (1) Did claimant file a timely hearing request within 90 days of the negative action notice?
- (2) Did the department correctly close claimant's AMP case due to excess income in June 2009?

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 is a former AMP recipient.

(2) On June 1, 2009, claimant applied for SER benefits to pay her rent.

(3) In order to determine claimant's SER eligibility, the caseworker asked her to verify her current income.

(4) On June 17, 2009, claimant provided a handwritten statement of her income which shows the following: (a) \$300 a month from her mother; (b) \$180 a month from her son; Total June income--\$480.

(5) In June 2009, the AMP income limit was \$360 per month.

(6) On June 22, 2009, the caseworker notified claimant that she had excess income from AMP eligibility purposes. Claimant's AMP case was closed effective August 1, 2009.

(7) On December 9, 2009, claimant requested a hearing.

(8) Claimant's hearing request was not filed within 90 days of the notification date (June 22, 2009). Claimant's hearing request was filed 170 days after the department mailed a negative action notice.

CONCLUSIONS OF LAW

ISSUE #1

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's administrative rules provide that the undersigned Administrative Law Judge has jurisdiction to hold a hearing only in those instances where the claimant files a timely hearing request.

The department's administrative rules define a timely hearing request as one which is filed within 90 days of the date of the negative action notice is mailed.

The preponderance of the evidence in the record establishes that claimant did not file her hearing request within the 90-day limit.

Therefore, the Administrative Law Judge does not have jurisdiction to hold the hearing based on the merits raised by claimant at the hearing.

ISSUE #2

Since claimant did not file a timely hearing request, the Administrative Law Judge has no jurisdiction to review the merits of claimant's AMP issue. Based on a careful evaluation of the evidence of record, the Administrative Law Judge concludes that the department correctly decided to close claimant's AMP case due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly closed claimant's AMP case due to excess income.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/

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

Date Signed: May 17, 2010

Date Mailed: May 18, 2010

heading

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:

