

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: 2010-35016
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 31, 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, a three-way telephone hearing was held on August 31, 2010, in Flint and Lansing, Michigan. The claimant did not appear. Claimant was represented by [REDACTED].

The department was represented by Mary Behrns (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

- (1) Is there a valid hearing request in the record?
- (2) Did [REDACTED] provide timely verification of assets on claimant's behalf?
- (3) Did the department correctly deny claimant's May 26, 2006 application due to excess assets (real property with a market value of \$4,400)?

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 May 26, 2006, claimant [REDACTED] filed an application on claimant's behalf. The MA-P asset limit on the date of application was \$2,000.

(2) The caseworker did an eligibility review and determined that claimant had the following MA-P countable assets: real property in [REDACTED], with a fair market value of \$4,400 (tax receipt dated September 23, 2009). The property was owned jointly by claimant and her son.

(3) On November 17, 2009, the caseworker denied claimant's MA-P application due to excess assets.

(4) On November 17, 2009, the caseworker sent a denial notice (DHS-4400) to claimant [REDACTED].

(5) On May 12, 2010, the claimant [REDACTED] requested a hearing on the denial.

(6) On August 10, 2010, claimant filed a hearing withdrawal form (18-A) stating that she understood the department's action and no longer wanted a hearing.

CONCLUSIONS OF LAW

ISSUE #1

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 Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For MA-P purposes, this means the claimant had 90 days from the date the written negative action (November 17, 2009) was issued. PAM 600, MAC R 400.906.

Claimant did not file a timely hearing request.

ISSUE #2

Since claimant [REDACTED] did not file a timely hearing request, the ALJ has no jurisdiction to rule on the merits. PAM/BAM, MAC R 400.906.

ISSUE #3

Since claimant [REDACTED] did not file a timely hearing request, the ALJ has no jurisdiction to rule on the merits. PAM/BAM, MAC R 400.906.

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 rule on the issues raised by claimant [REDACTED].

Based on claimant's failure to file a timely hearing request, this matter is DISMISSED due to lack of jurisdiction.

SO ORDERED.

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

Date Signed: October 13, 2010

Date Mailed: October 13, 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:

