

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: 2010-35399  
Issue No: 2006  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 26, 2010  
Montcalm 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 telephone hearing was held on August 26, 2010, in Stanton. The claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Linda Porter (FIM).

The Administrative Law Judge appeared by phone from Lansing.

ISSUES

- (1) Did claimant file a timely hearing request?
- (2) Did the department correctly deny claimant's MA-Under 21 application because claimant was over 21 on the date he filed his application (July 13, 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 an MA-Under 21 applicant. His date of birth is June 21, 1988.

Claimant is represented by [REDACTED] agency.

(2) Claimant had a hospital procedure on June 13, 2009. Claimant was under 21 at the time of the procedure.

(3) Claimant's representative filed an MA-Group II, under 21 application on July 13, 2009. Claimant was over 21 at the time the application was filed.

(4) On September 2, 2009, the caseworker denied claimant's application (DHS-1605/notice of case action) because claimant was not 21 on the date he filed the application.

(5) The caseworker neglected to send a copy of the DHS-1605 to claimant's representative [REDACTED].

(6) Claimant's representative contacted the DHS several times and was led to believe that the June 13, 2009 procedure would be covered under the MA-Under 21 policy.

(7) Claimant's representative thinks claimant is entitled to coverage as MA-Under 21 based on the PEM/BEM 132, page 1.

(8) The department summarized its action on a Hearing Summary (DHS-3050), dated February 20, 2010:

The client's representative requested a hearing because the department did not determine MA eligibility using the Group II under 21 category. PEM/BEM 135 says that the client must be under 21 in the test month. The application was filed on July 13, 2009. The test month was also July 2009. Therefore, there was no eligibility for June 2009, using the under 21 category. The department also determined there's no eligibility based on disability per the MRT decision dated August 31, 2009, denying disability for MA. The hearing request was filed after the 90-day timeliness standard so it was not filed timely.

(9) The department issued its denial notice on the DHS-1605 on September 2, 2009. Claimant did not request a hearing on the denial of his Medicaid application until December 18, 2009, which was more than 90 days from the negative action notice.

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 Medicaid purposes, this means that claimant had 90 days from the date of the written denial notice (September 2, 2009) to request a hearing. PAM 600, MAC R 400.904(4). Claimant's timely hearing due date was December 1, 2009.

The preponderance of the evidence establishes that claimant's hearing request was received by Administrative Hearings on December 18, 2009. Claimant's request for a hearing was not received within 90 days of the mailing of the spend-down notice.

Based on this analysis, the Administrative Law Judge concludes that claimant's hearing request, dated December 18, 2009, is untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant did not file a timely hearing request to contest the denial of his July 13, 2009 MA-P under 21 application.

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

SO ORDERED.

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

Date Signed: September 7, 2010

Date Mailed: September 7, 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:

