

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.: 2010-3890
Issue No.: 2000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
January 13, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Redford, Michigan on Wednesday, January 13, 2010. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department.

On the record, the Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. This matter is now before the undersigned for a final determination.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of Medical Assistance ("MA-P") and State Disability Assistance ("SDA") benefit programs?

FINDINGS OF FACT

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

1. The Claimant submitted a public assistance application seeking MA-P and SDA benefits on June 3, 2009. (Exhibit 1, pp. 2, 50)
2. On June 15, 2009, the Medical Review Team (“MRT”) determined the Claimant was not disabled. (Exhibit 1, pp. 1, 2)
3. On June 17, 2009, the Department sent the Claimant an eligibility notice informing the Claimant he was not eligible for MA-P and SDA benefits. (Exhibit 2)
4. On September 17, 2009, the Department received the Claimant’s Request for Hearing protesting the disability determination. (Exhibit 3)
5. On November 2, 2009, the State Hearing Review Team (“SHRT”) found the Claimant not disabled. (Exhibit 4)
6. The Claimant’s alleged physical disabling impairments are due to shortness of breath, chronic obstructive pulmonay disease (“COPD”), emphysema, cerebral aneurysm, stroke, hypertension, weakness, headaches/dizziness, and muscle spasms.
7. The Claimant has not alleged any mental disabling impairment.
8. At the time of hearing, the Claimant was 59 years old with a [REDACTED] birth date; was 5’ 6” in height; and weighed 160 pounds.
9. The Claimant has a limited education with an employment history as a janitory (current) and long-term employment unloading ship cargo with cranes.

CONCLUSIONS OF LAW

The Medical Assistance (“MA”) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services (“DHS”), formerly known as the Family Independence Agency, 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 regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903 Any hearing request which protests a denial, reduction, or termination of benefits must be in writing and signed by the Claimant, petitioner, or an authorized representative. MAC R 400.904(1) The client has 90 calendar days from the date of the written notice of case action to request a hearing. MAC R 400.901-.904; PAM 600 The request must be received anywhere in DSH within the 90 days. *Id.*

In this case, the Department sent the Claimant a written notice of case action on June 17, 2009. The written request for hearing was received on September 17, 2009 which is 92 calendar days later. The hearing request is untimely thus jurisdiction to adjudicate the merits of the claim does not exist as provided for in the Michigan Administrative Rules. Accordingly, the Claimant’s hearing request is dismissed as untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Claimant did not file a timely hearing request to protest the Department's determination.

Accordingly, it is ORDERED:

The Claimant's Request for Hearing is DISMISSED as untimely.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed: 3/29/2010

Date Mailed: 3/29/2010

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 the Circuit 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.

CMM/jlg

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