

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 201043928
Issue No. 2009
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 1, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 3-way telephone conference was held on Wednesday, September 1, 2010. The claimant personally appeared and testified with his authorized representative, [REDACTED], from [REDACTED].

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) application based upon the fact that the claimant stated that he was not disabled?

FINDINGS OF FACT

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

1. On June 23, 2009, the claimant submitted an application for MA where the claimant stated that he was not disabled. (Department Exhibit 1-13)
2. On July 16, 2009, [REDACTED] submitted another application for MA on behalf of the claimant that stated that the claimant was disabled.
3. On July 20, 2009, the department caseworker spoke to the claimant who stated that he was not disabled.

4. On July 20, 2009, the department caseworker denied the claimant's application as a result of a phone interview that the claimant stated he did not want to apply for MA based on disability because he was not disabled and was not aware that was the way [REDACTED] was applying for him. (Department Exhibit 14-15)
5. On April 5, 2010, the department received a hearing request from [REDACTED] [REDACTED] contesting the department's negative action.

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).

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not

have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) BAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See BAM 105. BEM, Item 110, p. 7.

The AR must give his name, address, and title or relationship to the client. To establish the client's eligibility, he must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM, Item 110, p. 7.

In the instant case, the claimant applied for MA and stated he was not disabled. The claimant would have the right to withdraw on his June 23, 2009 application because he filed it by himself and on the application he stated he was not disabled. However, on the July 16, 2009 application that was filed by [REDACTED] as the authorized representative, that stated he was disabled, the claimant could not subsequently state that he was not disabled and for the department caseworker to deny the application. Once the claimant has signed authorization to represent, the claimant cannot subsequently withdraw the application nor have the department caseworker withdraw the application stating that "he was not disabled".

Therefore, the department has not established that it was acting in compliance with department policy by denying the claimant's July 16, 2009 application based on a subsequent phone call with the claimant that he was not disabled as long as [REDACTED] was listed as an authorized representative.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not appropriately deny the claimant's MA application.

Accordingly, the department's decision is **REVERSED** and the department is **ORDERED** to reprocess the claimant's July 16, 2009 application filed by [REDACTED]

/s/

Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 22, 2010

Date Mailed: November 22, 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 mailing 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.

CGF / vc

cc:

[REDACTED]