

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: 2010-50272
Issue No: 2012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: 9/22/10
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, an in-person hearing was held on 9/22/10. Claimant did not appear. Claimant was represented by Steve Hosner, non-attorney with Advomas of Troy, Michigan.

ISSUE

Did the DHS properly process claimant's 12/22/09 Medical Assistance application?

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 12/22/09, claimant applied with the Wayne County DHS for Medical Assistance and Retro MA.
2. On 12/29/09, a DHS memo from the Wayne County DHS was issued to the Washtenaw DHS transferring claimant's case/application on the grounds that claimant was a resident of Washtenaw County.
3. Washtenaw County had no record of receiving the application.

4. The department submitted a 12/15/09 denial notice to claimant pursuant to a purported 12/09/09 application. The denial is for a caretaker relative MA category, and not a disability MA category. The denial states that claimant was not eligible for Medicaid as: "Not under 21, disabled, or caretaker relative of a minor."
5. The Department did not notify the representative of the denial.
6. The department's denial notices do not routinely contain an application date.
7. On 7/17/10, the Department received a hearing request from claimant's Representative.
8. The Department had no evidence that the 12/22/09 application was processed.
9. Claimant's application states on page G that claimant is: "...mentally impaired; learning disability, ADHD, Diabetes, hypertension." Page G also states that claimant is unable to work.
10. A DHS-49F completed on 12/9/09 states in part: "the grantee does not have a treating doctor due to a lack of health insurance." It is also indicated that claimant has been hospitalized for chest pains/weakness. On page 2 of the DHS-49F is a statement stating: "the grantee does not have a work history as he is not capable of working."

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).

First and foremost, there is a question regarding jurisdiction. Policy allows an individual to request an administrative hearing for 90 days from the date of notice. However, where an individual is not given notice, that 90 day window is tolled.

In this case, the Department had no evidence that it had processed or disposed of claimant's 12/22/09 application. The DHS denial notices routinely do not state an application date; thus, the DHS had no evidence in this case that the 12/22/09 application was processed or that claimant's MA-P case was sent to MRT.

The application submitted by the department at the administrative hearing as evidenced was the application reviewed at the administrative hearing. Regarding the substantive issue herein, the Department contends that it did not process the case as a Medicaid/Disability application on the grounds that claimant did not indicate that he was disabled. On page G which asks: "Was any person in your household who is blind or has a disability?" Under that section, claimant indicates that the medical condition consists of: "mentally impaired; learning disability; ADHD; Diabetes; hypertension." The response to the questions: "is this person able to work?" His answer: "claimant answered: No."

In addition to the same, the DHS 49-F specifically states that claimant does not have a work history as he is not capable of working and does not have a treating doctor due to a lack of health insurance.

After careful review the substantial and credible evidence on the whole record, this Administrative Law Judge finds that facts in this case are sufficient to find in favor of claimant. The representative submitted evidence of a 12/29/09 memorandum from Wayne County which documents the transfer of the case to Washtenaw County DHS. Moreover, the evidence on the application shows that claimant's answers are indicative of an individual that is claiming disability. Policy and Procedure requires the Department to process an application for all potential programs for which an applicant may be eligible. As such, this Administrative Law Judge orders the Department to reprocess this case as a Medicaid Disability application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department's actions were incorrect.

Accordingly, the Department's denial is hereby reversed.

The Department is ordered to reinstate claimant's 12/22/09 Medicaid application. The Department is ordered to issue any requests as would be required by Policy and Procedure with regards to any outstanding verification(s). Once completed, the Department shall forward claimant's case to MRT in accordance with its' usual Policy and Procedure. Should MRT make an adverse ruling in claimant's case, claimant shall have a right to a hearing as will be indicated on the denial notice. The Department is ordered to ensure that claimant's representative is notified as required by policy and procedure.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/22/10

Date Mailed: 10/22/10

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 mailing date of the rehearing decision.

JS/le

cc:

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