STATE OF MICHIGAN

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

IN THE MATTER OF:

Reg. No: 201051018
Issue No: 2009
Case No: ███████
Hearing Date: September 23, 2010
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 September 23, 2010. Claimant was represented by █████████ .

ISSUES

1.   Did claimant file a timely hearing request?

2.   Did the DHS properly deny claimant's September 11, 2009 MA 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 September 11, 2009, clamant applied for MA with the Michigan DHS.

2.   Claimant applied for three months of retro MA. Claimant listed numerous medical bills.

3.   Claimant indicated on the application that he has a medical condition of paranoid schizophrenia and is unable to work.

4.   The department processed the application for AMP only. On November 21, 2009, DHS denied AMP as the enrollment period was closed.

5.   On January 14, 2010, claimant filed a hearing request.

6.   Administrative Law Judge Zimmer denied the hearing request on the grounds that claimant's hearing request dealt with policy where there is no jurisdiction. R 400.903. On March 30, 2010, Administrative Law Judge Zimmer issued an Order of Dismissal.

7.   Pursuant to Administrative Law Judge Zimmer's order, claimant requested reinstatement. SOAHR reinstated the case and scheduled it for hearing on September 23, 2010.

8.   Claimant was approved SSI by SSA pursuant to a January 14, 2010 application date with a disability onset date of June 1, 2010.

9.   Claimant is in need of retro MA coverage—July 2009.

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).

Prior to any substantive review, jurisdiction is paramount. With regards to the timeliness factor, applicable policy and federal law states:

> The AHR, or if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. PAM, Item 600, p. 4.

> A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).

> The department must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. 42 CFR 431.221.

ISSUE 1

The department argues at the administrative hearing and on the hearing summary that claimant's hearing request is untimely. A review of the record indicates that claimant initially requested a hearing on January 14, 2010. As the original notice was issued on November 21, 2009, claimant was within the 90 day window at that time. However, Administrative Law Judge Zimmer's Order issued March 30, 2010 barred claimant from a hearing on the grounds that the department indicated there was no hearable issue. However, there is a hearable issue which is the purview of an Administrative Law Judge as claimant disputed failure of the department to process an MA-P application. This confusion arose on the grounds that the department did not believe that claimant had a disability. In any case, the subsequent request to have the hearing reinstated was not the original hearing request. As the original hearing request came in on January 14, 2010, claimant's request is within the 90 day window and jurisdiction is proper.

ISSUE 2

This Administrative Law Judge found a number of the factors at the administrative hearing somewhat confusing. A subsequent review of the evidentiary packet provided by the department indicates that on Exhibit 4 that claimant listed himself as not being able to work and having a medical condition of "paranoid schizophrenia." Moreover, claimant indicated on his application that he had a number of old medical bills in the prior three months to the application month. As such, the department should have processed an MA disability application and thus, the department's denial is reversed. BEM Item 260. See also BAM Items 105-115.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

ISSUE 1

Claimant filed a timely hearing request within the 90 day window and thus, jurisdiction is proper.

ISSUE 2

The department failed to process claimant's September 9, 2009 MA application as a disability application. Accordingly, the department's denial on this application is, hereby, REVERSED.

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The department is Ordered to reinstate claimant's September 11, 2009 application. The department may not need to process an MRT packet if the subsequent Social Security Decision allows the department to reach back and grant claimant retro MA. If not, the department is Ordered to reprocess the case in accordance with its policy and procedure.

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_____/s/_____

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

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Date Signed: March 23, 2011

Date Mailed: March 23, 2011

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.

JGS/db

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