

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.: 2010-55665
Issue No.: 2000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 9, 2010
Wayne County DHS (18)

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 telephone hearing was held on December 9, 2010. The Claimant did not appear however his authorized representative, [REDACTED], appeared on his behalf. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Claimant's/Representative's timely request for hearing is timely?

FINDINGS OF FACT

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

1. The Claimant/Representative submitted an application for cash assistance ("FIP") and child development & care ("CDC") on May 11, 2010.
2. On this same date, the Claimant/Representative withdrew her previous hearing request.
3. On May 12, 2010, a Verification Checklist was sent to the Claimant/Representative with a due date of May 24, 2010.
4. On May 26, 2010, the Department denied the application based on the failure to submit the requested verifications.
5. The Claimant/Representative received the Notice of Case Action regarding the application denial.

6. On September 14, 2010, the Claimant/Representative submitted her written request for hearing.

CONCLUSIONS OF LAW

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. MAC R 400.901 discusses notice of right to a hearing. This provision provides:

An applicant, recipient, or licensee shall be informed in writing at the time of application and at the time of any action affecting his claim:

- (a) of his right to a hearing, as provided in R 400.903.
- (b) of the method by which he may obtain a hearing, as provided in R 400.903.
- (c) that he may be represented by an authorized hearing representative, such as legal counsel, relative, friend, or other spokesman, or he may represent himself.

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 A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1) A claimant shall be provided 90 days from the negative action notice. MAC R 400.902 - .904; BAM 600

In this case, the Claimant/Representative received the May 26, 2010 Notice of Case Action ("Notice") regarding the denial of the May 11, 2010 application. The Claimant/Representative did not appeal this decision until September 14, 2010, more than 90 days after the Notice. Based on the foregoing, the Claimant's request is untimely thus is dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Claimant's/Representative's Request for Hearing is untimely.

Accordingly, it is ORDERED:

2010-55665/CMM

The September 14, 2010 Request for Hearing is DISMISSED.

Colleen M. Mamelka

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

Date Signed: 12/14/2010

Date Mailed: 12/14/2010

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.

CMM/jlg

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