

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.: 2010-10056

Issue No.: 2000

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

June 16, 2010

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, June 16, 2010. The Claimant's authorized representative, [REDACTED] appeared and testified.

ISSUE

Whether the authorized representative is entitled to a currently dated denial notice of a previously denied Medical Assistance ("MA-P") application?

FINDINGS OF FACT

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

(1) On March 23, 2009, the Claimant submitted an application for public assistance seeking MA-P benefits.

(2) The application and medical documents were submitted to the Medical Review Team who found the claimant not disabled.

(3) On May 19, 2009, the Department sent the Claimant a denial notice, form DHS 1150.

(4) The authorized representative denied receipt of the DHS-1150.

(5) On October 1, 2009, the Department received the Claimant's/authorized representative's untimely written request for hearing.

(6) The authorized representative requested that a currently dated DHS -3503 verification checklist and a notice of denial of benefits.

(7) The department caseworker FAXED a copy of the denial notice to L [REDACTED] on October 26, 2010.

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, formerly known as the Family Independence Agency, pursuant to MCL 400.10 *et seq* and MCL 400.105. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Policy Glossary ("BPG").

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 his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2) Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The State Office of Administrative Hearings and Rules (“SOAHR”) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service
- Suspension or termination of program benefits or service
- Restrictions under which benefits or services are provided
- Delay of any action beyond the standard of promptness
- For FAP only, the current level of benefits or denial of expedited service

BAM 600 Additionally, for MA purposes, SOAHR may grant a hearing on other issues not applicable here, such as community spouse income, allowance, asset assessment, etc.

In this case, the Claimant/Representative submitted an application for disability on March 23, 2009. The notice of denial of benefits was sent to claimant on May 15, 2009. Representative was aware of the denial (as evidenced by the October 1, 2009 hearing request), even though it did not receive a copy of the denial notice, the DHS-1150, until October 26, 2010. Importantly, the Representative is **not** protesting the MRT determination finding the Claimant not disabled and thus the denial of benefits. In stead, the Representative seeks a currently dated denial in order to apply for other programs or have a second opportunity to prove disability on the client’s behalf. Pertinent department policy and applicable law dictates that:

- The AHR or, if none, the customer has 90 calendar days from the date of the written notice of case action to request a hearing. BAM, Item 600, p. 5.
- 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 claimant shall be provided reasonable time, not to exceed 90 days, in which to appeal an agency action. 45 CFR 205.10.
- The agency 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.

Department policy also indicates that the application forms and each written notice of case action inform clients of their right to a hearing. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department; **and**
- **The reason(s) for the action; and**
- **The specific manual item(s)** that cites the legal base for an action, or the regulation, or law itself. See BAM 220. BAM, Item 600, page 1.

In this case, the department did provide the client with notice as is required by Department policy. The notice did not return to the department as undeliverable. The Representative contends, without citing to any authority, that it is entitled to a currently dated denial as opposed to a copy of the previous denial. The parties agree that the Department was supposed to send the denial notice to the authorized representative. However, the Representative is not entitled to a hearing so rely on this issue when they are not contesting the MRT determination. Ultimately, because the Claimant/Representative is not contesting a department decision affecting eligibility or benefit levels the Request for Hearing is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that since the Claimant/Representative is not contesting a department decision affecting eligibility or benefit levels the Request for Hearing is DISMISSED.

/s/
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 17, 2010

Date Mailed: June 18, 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 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.

LYL/alc

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