

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: 2010-13703
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 19, 2010
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 three-way telephone hearing was held on August 19, 2010, in Lansing and Charlotte. Claimant personally appeared and testified. Claimant was represented at the hearing by [REDACTED].

The department was represented by Christine Dennings (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

- (1) Did claimant file a timely hearing request?
- (2) Did the department correctly deny claimant's application for MA and retro MA due to excess assets (a \$6,304 [REDACTED])?

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 July 10, 2009, [REDACTED] applied for MA and retro MA on behalf of claimant.
- (2) Attached to claimant's application was an [REDACTED] Statement showing a savings account in the amount of \$6,304.
- (3) The caseworker called the [REDACTED] and asked if the amount in the account was available to claimant. The credit union representative stated that it was.
- (4) On July 10, 2009, the caseworker denied claimant's MA application due to countable assets from [REDACTED] (over the \$2,000 asset limit).
- (5) On July 10, 2009, the caseworker mailed claimant an Application Eligibility Notice (DHS-1150) to [REDACTED] at the address on the application. The DHS-1150 notified [REDACTED] that claimant's application was denied due to excess assets.
- (6) The 90-day due date for requesting a timely hearing on claimant's MA-P denial was October 8, 2010.
- (7) On November 2, 2009, [REDACTED] requested a hearing.
- (8) The [REDACTED] hearing request was not filed within the 90-day filing requirement for a hearing request.

CONCLUSIONS OF LAW

ISSUE #1

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).

The Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For Medicaid purposes, this means that claimant had 90-days from the date of the written denial notice to request a hearing. PAM/BAM 600; MAC R 400.904(4). Claimant's timely hearing request due date was October 8, 2010.

The preponderance of the evidence establishes that claimant's hearing request was received by administrative hearings on November 2, 2009. Claimant's request for hearing was not received within 90 days of the Negative Action Notice.

Based on this analysis, the Administrative Law Judge concludes that claimant's hearing request, dated November 2, 2009 is, untimely.

ISSUE #2

Based on claimant's failure to file a timely hearing request, the Administrative Law Judge has no jurisdiction to reach the merits of claimant's excess asset issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant did not file a timely hearing request to challenge the denial of her MA application.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 20, 2010

Date Mailed: September 21, 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.

JWS/tg

cc:

