

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: 2010-1913
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 18, 2009
Saginaw 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 telephone hearing was held on November 18, 2009, in Saginaw. Claimant personally appeared and testified under oath.

The department was represented by Deborah Hollis (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

- (1) Did claimant file a timely hearing request on his MA-P/SDA denial?
- (2) Did the agency correctly deny claimant's application for MA-P and SDA benefits?

FINDINGS OF FACT

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

- (1) Claimant applied for MA-P and SDA on December 4, 2008.
- (2) On April 22, 2009, the local Medical Review Team (MRT) denied claimant's application due to claimant's ability to perform light work. SHRT relied on Med-Voc Rule 202.21, as a guide.
- (3) On April 24, 2009, the caseworker sent claimant a written notice (DHS-1150) informing claimant that his MA-P/SDA applications had been denied.
- (4) Page 2 of the DHS-1150, which claimant used to file his hearing request, reads as follows:

Procedures for requesting a fair hearing

If you believe this action is illegal, you may request a hearing within 90 days of this notice. A hearing request for food benefits may be made in writing or by telephone. All other requests for a hearing must be made IN WRITING and signed and dated by you.

- (5) On August 14, 2009, the Saginaw DHS received the claimant's hearing request on the DHS-1150 mailed by the caseworker (August 24, 2009). Page 2 of the DHS-1150 reads in pertinent part:

Procedures for requesting a fair hearing.

If you believe this action is illegal, you may request a hearing within 90 days of this notice. A hearing request for food benefits may be made in writing or by telephone. All other requests for a hearing must be made IN WRITING and signed and dated by you.

* * *

(6) Claimant's August 14, 2009 hearing request was not filed 90 days after the April 24, 2009 hearing request was mailed.

(7) Claimant requests a hearing on the merits of his MA-P/SDA application.

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

ISSUE #1

The Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For MA-P/SDA purposes, this means that claimant had 90 days from the date the written negative action notice (DHS-1150) was issued. PAM 600; MAC R 400.906(4).

Claimant was properly notified of his right to request a hearing, subject to the 90-day hearing request requirement. The 90-day requirement was explained to claimant on the DHS-1150, which he used to request his hearing.

Claimant's hearing request was due in the department's office on July 24, 2009.

Claimant's hearing request written on the DHS-1150 was stamped in by Saginaw County on August 14, 2009.

Claimant's hearing request was 21 days late.

Since claimant did not file his hearing request on the MA-P/SDA denial within 90 days of the negative action notice (April 24, 2009), the Administrative Law Judge has no jurisdiction to consider the merits of his case, at this time.

ISSUE #2

The Administrative Law Judge does not have jurisdiction to reach the merits of the disputed MA-P/SDA denial, as requested by claimant in his hearing request (August 14, 2009), because claimant did not file his request within the 90 days.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that he has no jurisdiction to hear the merits of the issues raised by claimant's hearing request.

Therefore, the action taken by the department is, hereby, AFFIRMED.

SO ORDERED

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

Date Signed: March 12, 2010

Date Mailed: March 12, 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.

JWS/tg

cc:

