

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 20321
Issue No.: 2000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 24, 2010
Macomb County DHS (50)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 on January 14, 2010. After due notice, a telephone hearing was conducted on June 24, 2010. The Claimant appeared and testified. [REDACTED], [REDACTED], and [REDACTED] also appeared on behalf of Claimant. [REDACTED], Program Manager and [REDACTED], FIS, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Medical Assistance ("MA") benefits and whether the hearing was timely requested?

FINDINGS OF FACT

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

1. The Claimant was an active FIP based MA recipient.

2. Claimant underwent a review in August, 2009 at which point it was discovered that Claimant's son turned 18 years of age on 3/24/10.
3. According to Department testimony, on 9/10/09, the Department sent notice to Claimant that her MA benefits would terminate effective 9/1/09. (However, the actual notice submitted by the Department indicates that it was mailed on 8/5/09 - Exhibit 1).
4. Claimant denied receiving notice of said denial as it was mailed to an incorrect address.
5. Claimant testified that she moved in April of 2009.
6. Claimant testified that she reported the change in address to the Department, but was unable to give an exact date of the report of change.
7. Claimant testified that she filed a change of address form with the Post Office but that generally her mail carrier would simply bring the mail to the new address.
8. Claimant indicated in her hearing request she was scheduled for a dental procedure on 9/2/09. The day before the procedure the Claimant received a phone call indicating that she could not receive the procedure because the Medicaid had cancelled.
9. On January 14, 2010, the Department received the Claimant's Request for Hearing protesting the closing of MA.

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, formally known as the Family Independence Agency,

administers the MA program pursuant to MCL 400.10, *et seq* and MCL 400.105. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

The Authorized Hearing Representative (AHR) or, if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. BAM 600, p. 4. Timely notice is required for a negative action in most situations. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is then pended to provide the client a chance to react to the proposed action. BAM 220. p. 4.

In the present case, Claimant testified that she never received a notice of the termination of MA benefits. Claimant testified that she filed a change of address with the Department. However, the information received by the Department, including a shelter verification in July, 2009, indicates that Claimant was still residing at the previous address. The Administrative Law Judge finds that the Department did not have notice of Claimant’s new address. Furthermore, Claimant testified that while she filed a change of address with the post office, her mail carrier would simply deliver the mail to the new address. Claimant testified that she received other notices from the Department forwarded to the new address. Claimant testified that she moved in April, 2009, so in September, 2009, she would have still been within the 6 month forwarding time period. It is unclear why the Department’s Notice was not forwarded as well; however, it is not relevant as the undersigned finds that Claimant had notice of the benefit cancellation.

Relying on the Department testimony, the Administrative Law Judge finds that the Department’s notice was defective because it was not mailed out 11 days prior to the cancellation of benefits. In fact, the notice was mailed out after the benefits cancelled.

However, Claimant's hearing request indicates that she knew of the benefit closing before her scheduled procedure on 9/2/09. At that point, Claimant had notice (albeit defective) of the benefit cancellation and would have had 90 days to file a hearing request to protest the cancellation as well as the lack of proper notice. However, Claimant did not file a hearing request until January 14, 2010. Accordingly, Claimant's hearing request was filed more than 90 days after the negative action and is untimely.

Based upon the foregoing facts and relevant law, this hearing request is dismissed with prejudice as being filed untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Claimant did not file a timely hearing request.

Accordingly, this hearing request is dismissed with prejudice.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/01/2010

Date Mailed: 07/01/2010

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.

JV/cjp

cc:

