

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: 2010-31317

Issue No:

[REDACTED]

Case No:

[REDACTED]

Load No: 827600000

Hearing Date:

May 27, 2010

Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on May 27, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) benefits and Medical Assistance (MA) benefits? Did the Department timely process the Claimant's SER application?

FINDINGS OF FACT

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

1. On October 31, 2009, the Department completed a review and determined the Claimant had excess income for MA and opened a spend-down case.

The Department also determined the Claimant was eligible for \$95 in FAP benefits.

2. On February 18, 2010, the Claimant applied for SER.
3. On February 26, 2010, the Department approved the Claimant's SER application for the maximum allowed amount of \$550.
4. On April 12, 2010, the Claimant requested a hearing regarding her MA changing to a spend-down, her FAP benefit amount, and her SER application being processed timely.

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 (formerly known as the Family Independence Agency) 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).

In the present case, Claimant is protesting the Department's actions taken on two different occasions. The first action taken by the Department on October 31, 2009 resulted in the Claimant being found ineligible for MA and a spend-down case being opened for her, and her FAP benefits being determined to be \$95. The Claimant requested a hearing on these matters on April 12, 2010

The Claimant's hearing request, protesting her MA and FAP benefits, is untimely. Clients have 90 days from the date of the Department's negative action to request an administrative hearing. According to MAC R 400.904(4), a client is given 90 days from

the mailing of the proper notice of case action to request a hearing. Claimant failed to request a hearing within 90 days.

Therefore, Claimant's hearing request must be dismissed. According to the provisions of PAM, Item 600, p.4, the Claimant's request for a hearing is hereby **DISMISSED**.

The second issue presented by the Claimant is in regards to her SER application dated February 18, 2010 for Non-Heat electricity. The Department approved this request on February 26, 2010 for the maximum amount of \$550. The Claimant stated the Department was not timely in making the determination.

Relevant Policy ERM 301, p. 4:

Standard of Promptness

Give priority to SER applicants when there is a direct threat to health or safety requiring immediate attention.

The SER standard of promptness is **10 calendar days**, beginning with the day the signed SER application is received in the local office.

Do not use the standard of promptness as a basis for denial of SER applications.

Continue to pend an application if the SER group is cooperating within their ability to provide verifications.

Deny the application if the group does not cooperate.

There is no standard of promptness adjustment for holidays, weekends or non-business days. The case record must include documentation of the reason for any delay in processing the application beyond the standard of promptness.

As indicated by the above policy the standard of promptness for completing the SER application is 10 days. The Department in this case completed the application and issued the notice in under 10 days. Therefore, the Department complied with policy.

The Claimant also mentioned a letter she received about an increase in FAP benefits. The letter was a general letter sent to all Clients indicating LiHeap program and the use of \$1 from these federal funds to boost some FAP Clients benefits. This letter clearly indicated this was an automated update and if a Client's benefits were eligible for an increase the Client would receive an additional notice. The Claimant, however, was not eligible since the program was designed for those not already receiving the maximum shelter deduction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was acting in compliance with Department policy.

Accordingly, the Department's decision in this regard be and is hereby AFFIRMED.

As indicated above, all other issues were DISMISSED for being untimely.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

2010 31317/JWO

Date Signed: 06/16/2010

Date Mailed: 06/16/2010

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.

JWO/cjp

cc:

