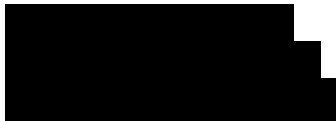


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:
Issue



Reg. No.: 2010-32925
No.: 2012
Case No.: [REDACTED]
Hearing Date: June 2, 2011
DHS County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice, an in-person hearing was held in Detroit, Michigan on June 2, 2011. The Claimant was represented by his Authorized Representative (AR) L & S Associates.

ISSUE

Did the Department of Human Services (Department) properly process the Claimant's Medical Assistance (MA), and retroactive MA applications?

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 April 23, 2008, the Claimant's AR filed an application for MA and retroactive MA.
2. On April 1, 2010, the Claimant's AR filed a request for a hearing due to the delay in the processing of the application.
3. On December 7, 2010, the Department sent the Claimant's AR a denial notice dated May 1, 2010.

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 (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

BAM 600 provides that a client or AR 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 the Department within the 90 days.

In the instant case the Claimant's representative requested a hearing in order to have the Department process an application dated April 23, 2008. In the alternative, at the hearing, the Claimant's AR requested a currently dated denial of the application. The Department concedes an application was in fact received April 23, 2008. It is clear from the record presented that the Department failed to process the application prior to the April 1, 2010 request for hearing. However, subsequent to the hearing request the application was in fact processed and denied by the Medical Review Team (MRT).

A denial notice was sent out December 7, 2010 to the Claimant and the Claimant's AR, albeit 7 months after the May 1, 2010 MRT denial was provided to the local office.

The remedy available for an Administrative Law Judge regarding a failure to process an application is to order the Department to process the application. In this case the Department, while untimely, did in fact process the application in question. Therefore there is nothing further this Administrative Law Judge can order in regards to processing the application.

The Claimant's representative requests a currently-dated denial be issued. This Administrative Law Judge has no jurisdiction to order the Department to create a new currently-dated denial. The Department can be ordered to provide a copy of the denial notice already issued if the Claimant's representative failed to get a copy. The Claimant's representative's right to request a hearing would begin the date the denial notice was actually issued, which in this case appears to be December 7, 2010.

The Claimant or Claimant's representative can appeal the denial issued 90 days from December 7, 2010. This Administrative Law Judge has no jurisdiction regarding subsequent actions taken by the Department after the April 1, 2010 hearing request.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, hereby **DISMISSES** the Claimant's hearing request of April 1, 2010 as moot since the Department did process Claimant's April 23, 2008 application for benefits.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 3, 2011

Date Mailed: August 3, 2011

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.

cc:

