

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: 2010-33332

Issue No: 2000; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 8, 2010

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a telephone hearing was held on June 8, 2010.

ISSUES

- (1) Is there jurisdiction to proceed with a hearing request on claimant's MA-P denial that is outside the 90-day jurisdictional window?
- (2) Did the DHS properly process claimant's SDA at review?

FINDINGS OF FACT

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

- (1) At all relevant times prior to any action herein, claimant was an SDA recipient with the Michigan DHS. Claimant was approved on December 10, 2009 by the MRT with a review date scheduled for March 2010.

(2) The local office subsequently processed an MA-P application on behalf of claimant and forwarded a 49A to MRT. The local office put down a new application date on September 28, 2009 for MA-P and incorrectly indicated SDA also.

(3) On January 10, 2010, MRT denied MA-P and caught the local office error stating: "... Approved in December '09 with review in March 2010. Leave SDA alone. Deny MA.'

(4) The department incorrectly closed claimant's SDA and failed to schedule her SDA for review.

(5) On January 28, 2010, the DHS issued a benefit notice informing claimant that she was denied MA-P pursuant to an MRT denial. Claimant was informed that she had 90 days to request a hearing.

(6) On May 3, 2010, claimant requested a hearing outside the 90-day jurisdictional window.

(7) On May 3, 2010, claimant filed a hearing request.

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

Jurisdiction is addressed in a number of different policy and legal sections with regards to an MA application/denial. Some of these sections state in part:

The AHR, or if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. PAM, Item 600, p. 4.

A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).

The department must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. 42 CFR 431.221.

As noted, an individual has 90 days from the date of notice to request an administrative hearing.

Evidence on the record indicates that claimant was notified on January 28, 2010. Claimant requested a hearing on May 3, 2010. May 3, 2010 was beyond the 90-day window from the January 28, 2010 notice. As such, this ALJ under both state policy and federal law has no jurisdiction to proceed with a review of claimant's MA-P denial.

On this issue, the department is partially affirmed.

ISSUE #2

As noted in the Findings of Facts, claimant was previously approved SDA by MRT on December 10, 2009 with a review scheduled for March 2010. For some reason, the department indicated that claimant had a new application on a subsequent MRT form. However, MRT caught the error and indicated on its MA-P denial that SDA stands with a review date scheduled for March 2010. Despite this, the local office did not catch the MRT communication and closed claimant's SDA.

After careful review of the substantial and credible evidence of the whole record, this ALJ finds that the department failed to read the MRT form adequately and to keep claimant's SDA open for the March 2010 review. The department stipulated at the administrative hearing that it will immediately reinstate claimant's SDA; issue supplemental benefits to claimant from the date of closure, and schedule this case for a review in accordance with its usual policy and procedure. On this issue, the department is partially reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

(1) Claimant's request for a hearing on the MA-P denial of January 28, 2010 was beyond the 90 day window and thus, there is no jurisdiction to review claimant's MA-P denial. The department's for MA-P stands.

(2) The department incorrectly closed claimant's SDA. The department is ORDERED to immediately reinstate claimant's SDA, issue any supplemental benefits to which claimant is entitled from the date of closure, and schedule the claimant's SDA for review in accordance with its policy and procedure and MRT instructions.

On this issue, the department is partially REVERSED.

/S/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 19, 2010

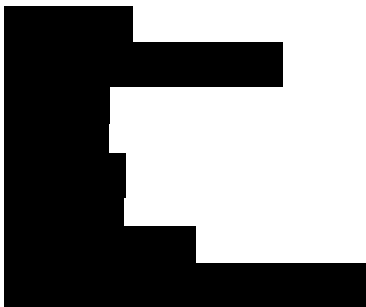
Date Mailed: July 21, 2010

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.

JGS/tg

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