

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: 2010-39635
Issue No: 2018
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 17, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 three-way telephone hearing was held on August 17, 2010. Claimant did not appear. Appearing and testifying on claimant's behalf was [REDACTED].

ISSUE

Is the authorized representative entitled to a currently dated denial notice of a previously denied Medicaid (MA) application?

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's representative applied for MA and retro MA for the claimant on July 17, 2009.

2. Department denied claimant's MA application on August 3, 2009 but did not send a copy of denial notice to claimant's representative. The application denial was apparently based on Medical Review Team's determination that the claimant was not disabled.

3. Claimant's representative filed a hearing request on February 17, 2010 stating that no notice of MA denial was received by them.

4. On March 24, 2010 department faxed claimant's representative the denial notice. Cover sheet to the denial notice containing claimant's name, address and case number was dated March 24, 2010. However, the actual Notice of Case Action denying claimant's July 17, 2009 application that was included with the cover sheet was a copy of the August 3, 2009 denial notice.

5. Claimant's representative is requesting that a current notice with a date of mailing to allow 90 days to contest MA denial be issued by the department.

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

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC 400.901-951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied, or to any recipient who is aggrieved by any

department action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

In this case claimant's representative submitted an application for disability MA on July 17, 2009 which was denied by the department on August 3, 2009. Department does not dispute that no notice was mailed to claimant's representative advising them of application denial. Claimant's representative filed a hearing request on February 17, 2010 stating that no Application Eligibility Notice was ever received notifying them of any case action that the department took on claimant's application. Claimant's representative seeks a currently dated denial in order to request a timely hearing of department's August 3, 2009 denial of claimant's MA application. This is due to the requirement that any hearing request which protests a denial, reduction, or termination of benefits must be filed within 90 days of the mailing of the negative action notice. MAC R 400.902; MAC R 400.903; MAC R 400.904.

Department's resolution to the hearing request was to fax a copy of the August 3, 2009 denial notice to claimant's representative on March 24, 2010. Claimant's representative testified that such a resolution is not satisfactory, as any subsequently filed hearing request on the issue of claimant's disability MA denial could be dismissed due to being untimely, i.e. over 90 days from August 3, 2009 denial date.

Administrative rule cited above clearly does not provide the claimant's representative to a right to a hearing on the issue of not receiving a currently dated denial notice, as that is not one of the basis for a right to a hearing. However, it does appear that the claimant's representative did not even become aware of any action on claimant's MA application until sometimes in February, 2010 at the earliest, the month in which the hearing request was filed. Department was unaware that no notice was sent to claimant's representative for about 6 months, until they

received the hearing request. Department then waited for almost a month following the receipt of this hearing request to provide a copy of the August 3, 2009 notice to the representative. No explanation of what had occurred with the August 3, 2009 notice was enclosed with a copy of the notice provided to the representative in March, 2010. Representative's concern that a subsequent hearing request on the issue of MA disability denial of August 3, 2009 could have been viewed as untimely by others who may have been involved in processing it is therefore understandable.

The Administrative Law Judge suggested that the department provide a memorandum to claimant's representative explaining the situation, so it could be used with the MA disability hearing request. Department's representative stated that she had been advised not to issue either a current denial notice or any other correspondence pertaining to the matter.

Claimant's representative is not entitled to a current denial notice and no authority has been cited to support a position that it is. Claimant's representative is not entitled to a hearing on the issuance of a current denial notice, as this is not a listed basis for a hearing in Michigan Administrative Code. Claimant's representative was however entitled to have some type of a written explanation enclosed with a copy of the August 3, 2009 notice sent to them on March 24, 2010, to show what occurred and to prevent a dismissal of an MA disability hearing request, based on such request being untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant's representative is not entitled to a currently dated denial notice of a previously denied MA application. Claimant/representative's hearing request is therefore DISMISSED.

Claimant/representative may however use this hearing decision's mailing date to request a hearing on the issue of claimant's MA disability denial of August 3, 2009 if it so chooses. 90 day period in which to request such a hearing will start with this decision's mailing date.

SO ORDERED.

/S/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 17, 2010

Date Mailed: August 18, 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.

IR/tg

cc:

