

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-50855
Issue No.: 2000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 27, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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. After due notice, a hearing was held in Clinton Township, Michigan on Wednesday, October 27, 2010. The Claimant did not appear however her authorized hearing representative, [REDACTED] of [REDACTED], appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Claimant's hearing request for the denial of Medical Assistance ("MA-P") benefits based on the April 2007 application is timely?

FINDINGS OF FACT

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

1. The Claimant is a MA-P recipient.
2. In April 2007, the Claimant/Authorized Representative submitted an application for MA-P benefits.
3. On January 10, 2008 and May 8, 2008, the Claimant/Authorized Representative submitted MA-P applications.
4. On April 22, 2008, the Department notified the Claimant and Authorized Representative of the Medical Review Team's ("MFT") denial of the April 2007 application. (Exhibit 2)

5. The April 22, 2008 denial was not appealed.
6. On May 19, 2008, the MRT determined that the Claimant was not disabled based on the January 10, 2008 application.
7. The Department sent an Eligibility Notice to the Claimant/Authorized Representative informing her of the MRT determination.
8. On June 23, 2008, the Department received the Claimant's/Authorized Representative's request for hearing, specifically protesting the January 10, 2008 application denial. (Exhibit 1)
9. On June 1, 2009, a hearing was held regarding the January 10, 2008 application.
10. On July 14, 2009, the undersigned found the Claimant disabled for purposes of the MA-P program.
11. As a result, the Department was ordered to activate coverage based on the January 10, 2008 application to include any applicable retroactive coverage.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services ("DHS"), formerly known as the Family Independence Agency, 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").

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 R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903 A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1) A claimant shall be provided 90 days from the negative action notice. MAC R 400.902 - .904; BAM 600

In this case, on April 22, 2008, the Department notified the Claimant and Authorized Representative of the MRT denial of the April 2007 application. This denial was not

appealed. On May 19, 2008, the MRT denied disability based on the January 10, 2008 application. The Department notified the parties of the MRT determination and on June 23, 2008, the Authorized Representative timely appealed the denial specifically referencing the January 10, 2008 application. A hearing was held on June 1, 2009. During the hearing, there was no mention of an earlier (April 2007) application. As a result of the hearing, the Claimant was found disabled. The Department was ordered to activate coverage effective January 2008 to include any applicable retroactive coverage. Subsequently, the Authorized Representative sought to have a hearing for the April 22, 2008 denial of the April 2007 application based on the June 23, 2008 hearing request. In light of the fact that the earlier application was not brought up during the June 1, 2009 hearing and because the June 23, 2008 request for hearing specifically references the January 10, 2008 application, it is found that there was not a timely appeal of the denial of the April 2007 application. Accordingly, the Claimant's request for hearing is dismissed as untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law DISMISSES the Claimant's request for hearing for the denial of the April 2007 application.

Accordingly, it is ORDERED:

The Claimant's Request for Hearing is dismissed as untimely.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/03/2010

Date Mailed: 11/03/2010

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.

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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.

CMM/jlg

cc:

