

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: 201051019
Issue No: 2012
Case No: [REDACTED]
Hearing Date: September 29, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 3-way telephone hearing was held on September 29, 2010. Claimant did not appear. Claimant was represented by [REDACTED]

ISSUE

1. Is claimant's hearing request untimely?
2. Can the DHS prevail where it cannot present sufficient evidence due to noncooperation by [REDACTED] as to the medical file and id the DHS properly deny claimant's 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. On December 23, 2008, [REDACTED] applied on behalf of claimant for Medicaid disability.
2. Claimant applied for three months of retro-MA.
3. On March 3, 2009, the DHS issued a Verification Checklist to [REDACTED]
4. On September 23, 2009, a caseworker informed [REDACTED] that the case was denied by MRT on May 18, 2009. The department had no evidence of having notified [REDACTED]

5. Claimant was subsequently approved Social Security with an eligibility date of February 1, 2009, and a disability onset date of January 27, 2009. The department opened claimant's case for three retro months—back to November, 2008.
6. [REDACTED] needs retro for September, 2008 for their hospital client.
7. On June 14, 2010, [REDACTED] filed a hearing request.
8. The department had no evidence of proper notification to claimant of any disposition. [REDACTED] hearing request on June 14, 2010 is not untimely.
9. Claimant's application was filed in [REDACTED] has been unsuccessful in getting [REDACTED] to cooperate and respond to inquiries to obtain the file and/or the DHS 49A even when the [REDACTED] attempted to get [REDACTED] cooperation.
9. The department stipulated at the administrative hearing that it had no evidence. knowledge or information as to when or if MRT denied claimant's application.

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 hearing summary in this case indicates that the applicable policy and law is BEM 150. Relevant applicable policy and procedure to the case herein with regards to application filing, processing, and notice is found primarily in BAM Items 102-115.

The first issue reviewed in this case has to do with claimant's hearing request. The hearing summary indicates that the department issued an Notice of Denial on April 23, 2009. The hearing summary further states that claimant requested a hearing on June 14, 2010 and that the hearing request is untimely. Thus, the department argues that this matter should be dismissed.

The department had no evidence of having issued a denial notice to [REDACTED] Under DHS policy, the representative stands in the shoes of the applicant. DHS policy found in BAM. DHS is required to notify/respond with claimant's representative in the application process. As this was not done in this case, the timeliness is tolled. Claimant's hearing request of June 14, 2010 is not untimely and thus, jurisdiction is proper.

With regard to the substantive issues herein, this case is extremely confusing. Of note, claimant's subsequently became eligible for Social Security. Claimant's Social Security eligibility allowed the department to give claimant Medicaid including retro MA months back to November 2008. However, [REDACTED] is seeking to collect a hospital bill for September 2008 which can only be reached if there is a medical disability approval of the retro months for the December 23, 2008 application.

The department was unable to submit or assemble any reasonable evidentiary packet in this case. The department was given a recess and opportunity to research this case. Upon return, the department stated:

This case was actually applied for in [REDACTED] we are not sure if this case actually went to MRT or not. We do not have the 49A even though it was requested several times and even though our Director got involved in it in and [REDACTED] [REDACTED] has not responded to us or sent us anything.

At the administrative hearing, the department indicated that it had no medical packet and/or application due to [REDACTED] failure to cooperate with [REDACTED] in sending the file and/or responding to the [REDACTED] request on this matter. However, [REDACTED] indicated that they can reconstruct the medical packet and also that they have a copy of the application.

The department is ordered to allow [REDACTED] 30 days to recompile the application and medical packet and send it to [REDACTED] shall reinstate claimant's December 23, 2008 application, including three retro months. The county is ordered to sent the packet to MRT in accordance with its usual policy and procedure.

DECISION AND ORDER

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

- 1, Claimant's hearing request is not untimely as the 90 day window was tolled. Jurisdiction is proper.
2. The department incorrectly processed claimant's MA application and accordingly, the department's position that this case was denied is, hereby, REVERSED. The department is ORDERED to reinstate claimant's December 23, 2008 Medicaid disability application, including three retro months. The department is ORDERED to give [REDACTED] 30 days from the date of this Decision and Order to reconstruct the medical packet and the application and to forward both to [REDACTED] for processing. The department shall give [REDACTED] any extensions necessary to complete any necessary verification(s). The department shall then follow its usual policy and procedure in forwarding the case to the MRT.

It is so ORDERED.

/S/
Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 22, 2011

Date Mailed: February 22, 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.

JGS/db

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