

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201114550
Issue No: 2000
Case No: [REDACTED]

Hearing Date:
May 10, 2011
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 3, 2011. After due notice, a telephone hearing was held on Tuesday, May 10, 2011. The Claimant and his Authorized Hearings Representative were present for the hearing.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

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 was an ongoing Medical Assistance (MA) recipient until July 1, 2010.
2. On June 18, 2010, the Department notified the Claimant that it would terminate his Medical Assistance (MA) as of July 1, 2010, because he was no longer receiving Supplemental Security Income (SSI) benefits.
3. The Department received the Claimant's request for a hearing on January 3, 2011, which was 199 days after the Department sent its notice of case action, protesting the termination of Medical Assistance (MA).

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).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600. The State Office of Administrative Hearings and Rules ("SOAHR") may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service
- Suspension or termination of program benefits or service
- Restrictions under which benefits or services are provided
- Delay of any action beyond the standard of promptness
- For FAP only, the current level of benefits or denial of expedited service

BAM Item 600, page 1. Additionally, for MA purposes, SOAHR may grant a hearing on other issues not applicable here, such as community spouse income, allowance, asset assessment, etc.

Pertinent department policy and applicable law dictates that:

- The AHR or, if none, the customer has 90 calendar days from the date of the written notice of case action to request a hearing. BAM, Item 600, p. 5.
- 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 claimant shall be provided reasonable time, not to exceed 90 days, in which to appeal an agency action. 45 CFR 205.10.

The agency 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.

In this case, the Claimant was an ongoing Medical Assistance (MA) recipient until July 1, 2010. On June 18, 2010, the Department notified the Claimant that it would terminate his Medical Assistance (MA) as of July 1, 2010, because he was no longer receiving Supplemental Security Income (SSI) benefits.

The Department received the Claimant's request for a hearing on January 3, 2011, which was 199 days after the Department sent its notice of case action. A Medical Assistance (MA) recipient has 90 days from the date of the written notice of case action to request a hearing.

The Claimant's representative argued that she and the Claimant did not understand that the Department's Notice of Case Action was a termination of Medical Assistance (MA). The Claimant's representative argued that she was unaware of the need to request a hearing until later.

The Claimant's request for a hearing was received by the Department after the deadline to submit a request for a hearing. Although the Claimant's may not have understood the Department's Notice of Case Action, he had the opportunity to seek clarification from his caseworker before benefits were terminated. The claimant's grievance centers on dissatisfaction with the Department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. [REDACTED]

DECISION AND ORDER

Since more than 90 days has passed since the Department's eligibility determination, this Administrative Law Judge does not have the jurisdiction to hear or decide upon the Claimant's grievance.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Request for Hearing is **DISMISSED**.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 20, 2011

Date Mailed: May 23, 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 60 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.

KS/tg

cc:

