

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

IN THE MATTER OF:



Reg. No.: 2011-14426
Issue No.: 2009, 4001
Case No.: [REDACTED]
Hearing Date:
February 10, 2011
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 telephone hearing was conducted by the undersigned on February 10, 2011. Claimant appeared and testified on her own behalf. T. Young, FIM and Marilyn Conner, ES appeared on behalf of the Department.

ISSUE

Whether the Department of Human Services (DHS) properly processed the Claimant's application of March 15, 2010.

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 applied for benefits on March 15, 2010. The Department processed the application for Adult Medical Program (AMP) and Food Assistance (FAP). Exhibit 1

2. The Claimant was granted FAP benefits and the application for the Adult Medical Program AMP was denied.
3. The Department issued a Notice of Case Action on March 15, 2010, denying the Claimant's application for medical Assistance, AMP, as the program was frozen and granted FAP benefits. Exhibit 2
4. The Claimant received the Notice of Case Action dated March 15, 2010, as she provided a copy of same at the hearing. Exhibit 2
5. The Claimant testified that she also attempted to apply for State Disability Assistance (SDA) and wanted also to apply for Medical Disability (MA-P) at the time of her March 15, 2010 application and testified that she was told she could not apply for MA-P until she was denied Social Security Disability.
6. At the time the Claimant completed the March 15, 2010 application, she crossed out SDA and initialed page A by the area crossed out The Claimant also answered "NO" to the question, "List any person in your household who is blind or has a disability." The Claimant testified that she was told to do this by the caseworker who assisted her in filling out the application.
7. On November 11, 2010, the Claimant reapplied for AMP, MA-P, and SDA.
8. The Claimant's case was opened and she is currently receiving AMP and the Claimant's MA-P and SDA cases are currently pending medical review.

9. The Claimant's request for a hearing dated December 20, 2010 was not received within 90 days. Exhibit 3
10. The Claimant requested a hearing on December 20, 2010, protesting the failure of the Department to process her application of March 15, 2010 for SDA and MA-P. The hearing request was received by the Department on January 3, 2011.

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 400.1 *et seq.*, and MCL 400.105. Department policies are found in the Bridges/Program Administrative Manual (BAM/PAM), the Bridges/Program Eligibility Manual (BEM/PEM) and the Reference Tables (RFT).

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 R400.3151-400.3180. Department policies are found in the Bridges Manual (BM) and Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

In this case, the Claimant seeks a hearing regarding a failure of the Department to properly process her application for SDA and Medical Disability when she made application on March 15, 2010. The application speaks for itself as the questions regarding disability and SDA indicate that the Claimant did not intend to apply for those

benefits. The Claimant's testimony that she was misled by the Department is not supported by the application itself. The Claimant signed an application as true at the time filed it, and therefore is bound by her written words. To claim at this date that the information was untrue at the time as was filed due to advice of a caseworker is not found as credible in light of the application itself. There also is no basis or reason why the department would discourage an applicant's application for benefits. While Claimant has a right to a hearing regarding the processing of her applications, the request for a hearing must be timely.

BAM 600 governs the conduct of hearings with regard to Department of Human Services benefits, it provides:

Deadlines for Requesting a Hearing

All Programs

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**. The request must be received anywhere in DHS within the 90 days.

Days as used in this item, mean calendar days unless otherwise specified. (Emphasis supplied).

The forms completed by the Claimant's at application and received with the Notice of Case Action inform clients of their hearing rights and how to file a Hearing request.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The Department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600 page 1

The application forms and each written notice of case action inform clients of their right to a hearing. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses.

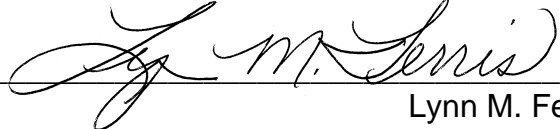
The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the Department; **and**
- **The reason(s) for the action; and**
- **The specific manual item(s)** that cites the legal base for an action, or the regulation, or law itself;

In this case, the claimant received the Notice of Case Action, which was her written notice of the action taken by the Department, which was dated March 15, 2010 and was required to file the hearing request within 90 days of that date. The Claimant had 90 days to file an objection to the failure of the department to process her application for SDA and Medical disability or complain that the caseworker misinformed her. The claimant filed her hearing request well after the expiration of the 90 day period, filing it in December 20, 2010, and thus her hearing request was not timely, and the request for hearing must be dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's request for Hearing dated December 20, 2010 was untimely and, accordingly, the Hearing Request must be DISMISSED.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 02/15/11

Date Mailed: 02/16/11

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.

LMF/dj

cc:

