

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-32850
Issue No: 2011
Case No: [REDACTED]
Hearing Date: May 21, 2013
Wayne county DHS #18

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 telephone hearing was held on May 21, 2013. Claimant did not appear. Claimant [REDACTED] [REDACTED] appeared and testified on claimant's behalf. The department was represented by Assistance Payments Supervisor [REDACTED] [REDACTED]

ISSUE

Whether this Administrative Law Judge may take Jurisdiction in the instant case?

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 August 14, 2009, [REDACTED] filed an application on claimant's behalf for Medical Assistance (MA-P) with a Retroactive MA-P application for July, 2009.
2. A verification checklist was sent to both claimant and her authorized representative, [REDACTED] on November 3, 2009 with verifications due November 13, 2009.
3. On November 5, 2009, claimant died.
4. Neither claimant, nor her authorized representative responded to the verification checklist request and the application was denied November 24, 2009.

5. On November 24, 2009, the department caseworker sent claimant and her Authorized Representative [REDACTED] notice that claimant's application was denied for failure to provide verification information.
6. On December 4, 2009, a second Notice of Case Action was sent to claimant's address and to her authorized representative.
7. The verification checklist was not sent to [REDACTED] because they were not the authorized representative in December, 2009.
8. On February 26, 2010, [REDACTED] received [REDACTED] for [REDACTED] [REDACTED] [REDACTED] with an expiration date of August 26, 2010, signed by [REDACTED] [REDACTED] [REDACTED] Judge [REDACTED].
9. On February 26, 2010, [REDACTED] signed an authorization for release of medical information to [REDACTED].
10. On February 26, 2010 [REDACTED] also signed an authorization to represent, authorizing [REDACTED] to act as her authorized representative for Medicaid.
11. On March 2, 2010, [REDACTED] filed a request for a hearing to contest the department's negative action.
12. On March 23, 2010, [REDACTED] filed a Hearing Request Withdrawal stating "DHS had provided a 3503 requesting additional information to process application retroactive to July, 2009. We now agree with the decision made by DHS".
13. On June 13, 2010, [REDACTED] filed a second request for a hearing on this issue.
14. On August 26, 2010, the [REDACTED] from the [REDACTED] expired.
15. On September 15, 2010, Deputy Director of SOAHR, [REDACTED], issued an Order of Dismissal indicating that claimant's appeal request was received more than 90 days from the date of the Department of Human Services Notice of Case Action.
16. On October 1, 2010, [REDACTED] [REDACTED] filed a request for rehearing/reconsideration stating "based on a March 3, 2010 L-letter, any administrative hearings that are pending due to lack of documentation for citizenship or ID should be reviewed to determine if the client claimant to be a US citizen. If so, the case should have new

policy applied to it, after which a withdrawal of administrative hearing should be pursued. In the present case, [REDACTED] was denied for lack of documentation for citizenship. It is our position that per L-letter 3/3/10, a reconsideration should be granted, the new policy should be applied to the case, and afterwards a withdrawal of my hearing request should be pursued". (Register # 2010-53443).

17. On October 7, 2010, an Order of Dismissal was issued by Administrative Law Manager, [REDACTED] stating that SOAHR has no jurisdiction to resolve the matter because claimant's request for hearing was received more than 90 days from the date of mailing of the Notice of Case Action. The Order also stated that the claimant may appeal this decision to the circuit court for the county in which s/he lives within 30 days of the receipt of this decision (Register #2010-53443).

CONCLUSIONS OF LAW

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 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 (PRM).

Because Claimant's request for hearing was not received/made within ninety days of the disputed action taken by the Department, this request for hearing must be dismissed for lack of jurisdiction. In addition, this was decided by both Deputy Director SOAHR [REDACTED] on September 15, 2010 and, upon Request for reconsideration by Administrative Law Judge [REDACTED] on October 7, 2010. It is a general principle that such decision is binding and conclusive upon all other courts of concurrent power. There is no evidence on the record that claimant pursued this case in Circuit Court. Nor is there evidence on the record that the Circuit Court issued a Remand Decision to compel this Administrative Tribunal to take further action in this case. This issue has already been decided and is prohibited by the principle of *res judicata*.

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Based on the above discussion, it is ORDERED that this Request for Hearing is **DISMISSED**.

/s/

Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2013

Date Mailed: May 30, 2013

LYL/las

cc:

