

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-005813 HHS

Case No. ██████████

DISMISSAL ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant personally appeared and testified. ██████████, with ██████████, represented Appellant at the administrative hearing.

██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor (ASS) appeared as witnesses on behalf of the Department.

ISSUE

Is there jurisdiction to proceed with a substantive review where Appellant's hearing request was beyond the 90 day jurisdictional window?

FINDINGS OF FACT

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

1. Appellant is a ██████████ old male Medicaid beneficiary who has an HHS grant with the MDHHS.
2. On ██████████ Appellant filed a Request for Hearing stating "a review found that my Medicaid was inactive, which in fact was active in error. ██████████ is currently active. Case shouldn't have been denied. Called worker. No returned calls." (Exhibit A.4).
3. At the administrative hearing, Appellant's hearing represented testified that a hearing was requested on the grounds that Appellant disputes the non-payment for HHS from ██████████

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a physician and may be provided by individuals or by private or public agencies.

Prior to any substantive review, an Appellant must establish that jurisdiction is proper. This Administrative Law Judge only has jurisdiction to hear matters related to a denial, reduction, termination, or suspension of a Medicaid covered service. Federal Regulations: 42 C.F.R. § 431.200 *et seq.* and 42 C.F.R. § 438.400 *et seq.*

As to the window of time for which an Appellant may request an administrative hearing, law and policy states:

The Social Security Act and the federal regulations which implement the Social Security Act require an opportunity for fair hearing to any recipient who believes the Department may have taken an action erroneously. *See 42 CFR 431.200 et seq.* The opportunity to fair hearing is limited by a requirement that the request be made within 90 days of the negative action. The regulations provide, in pertinent part:

Request for hearing.

(d) 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(d)*.

If you do not agree with this action, you may request a Michigan Department Community Health fair hearing within 90 calendar days of the date of this notice. (Notice on the Advance Negative Action form, DHS-1212).

Here, Appellant alleges that he received a denial, (Exhibit A.4), and, was not paid from 8/18/15 until 12/30/14. Under the above cited law and policy, this ALJ has no jurisdiction to review any action, except those regarding actions taken by the Department during the 90 day period prior to the request for the administrative hearing. The facts here show that Appellant's hearing request of [REDACTED] was outside a 90 day window to address issue(s) regarding [REDACTED]. Thus, Appellant's hearing request must be dismissed.

It is noted that with regards to Appellant's representative's request to open Appellant's case prior to the 90 day reviewable period herein, under ASM 105 the Department cannot authorize a grant prior to the assessment.

IT IS THEREFORE ORDERED that

The above-titled matter is DISMISSED.



Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human
Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

JS [REDACTED]

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant 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 of the rehearing decision.