



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: [REDACTED]
MAHS Docket No.: 16-002349
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

DISMISSAL ORDER

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

After due notice, a hearing was held on [REDACTED]. Petitioner passed away on [REDACTED]. Petitioner's daughter obtained a Letter of Authority as a Personal Representative on behalf of Petitioner's estate on [REDACTED].

[REDACTED], Appeal Review Officer represented the Department of Health and Human Services (Department or Respondent). [REDACTED], ASW appeared as a witness.

At the time and place for the administrative hearing, as a preliminary matter, the Department motioned for a dismissal on the grounds that Appellant's hearing request was untimely filed. Unrefuted evidence is that the most recent negative action issued by the Department was dated [REDACTED]. Petitioner's case closed [REDACTED]. Petitioner's hearing request was received by the Michigan Administrative Hearing System (MAHS) on [REDACTED]. At the administrative hearing, Petitioner's representative requested a review of warrants issued between [REDACTED].

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.

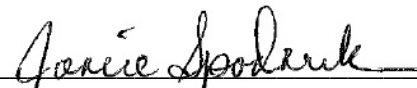
(d) The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. *42 CFR 431.221(d).*

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)

In this case, Petitioner's representative's hearing request was received outside the 90 day jurisdictional window. Moreover, Petitioner's representative requests a review of warrants issued more than a year prior to the administrative hearing request. Appellant's hearing request was filed outside the jurisdictional 90 day window. Under federal and state law, this Administrative Law Judge has no authority to review any substantive issue of requests filed outside the 90 day jurisdictional window. As such, under the above cited authority, Appellant's hearing request must be dismissed. *42 CFR 431.221(d).*

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Agency Representative

[REDACTED]

Petitioner

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Authorized Hearing Rep.

[REDACTED]