

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Claimant

Reg. No: 2007-27788  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 6, 2008  
Barry County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an in-person hearing was held on March 6, 2008. Claimant was represented at the hearing by attorney [REDACTED] of [REDACTED].

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) application?

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 4/10/07 claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant applied for three months of retro MA.
- (3) On 5/31/07 the MRT denied.

(4) On 6/7/07 the DHS issued notice.

(5) On 8/31/07 claimant filed a hearing request.

(6) Testimony on the record at the administrative hearing was unclear regarding claimant's previous denial(s) by SSA for SSI. Claimant testified that his previous filings alleged the same impairments. Exhibit 212 indicates that at the time of claimant's current application and SSA application was pending pursuant to 4/3/07 application. On 4/5/10 the undersigned administrative law judge received an SOLQ verification indication claimant currently has a social security application pending pursuant to a 2/25/10 application. Claimant's previous application was denied. Claimant has been denied SSI by the Social Security Administration (SSA). Claimant has had a final determination by SSA. None of the exceptions apply.

(7) On 12/5/07 the State Hearing Review Team (SHRT) denied claimant. Pursuant to claimant's request to hold the record open for the submission of new and additional medical documentation, on 3/13/09 SHRT once again denied claimant.

(8) As of the date of application, claimant was a 44-year-old male standing 5'10" tall and weighing 250 pounds. Claimant's BMI is 35.9 under the Medical BMI Index classifying claimant as obese. Claimant has a GED.

(9) Claimant does not have an alcohol abuse problem or history. Claimant does not have a current drug problem but does have a drug history. Claimant smokes. Claimant has a nicotine addiction.

(10) Claimant does not have a driver's license due to it being revoked for a DUI.

(11) Claimant is not currently working. Claimant's work history is unskilled. Claimant last worked in December, 2006 chopping wood.

(12) Claimant alleges disability on the basis of a heart attack followed by three stints, hepatitis C, hypertension, anxiety, depression, shattered left hip, and anal fissure.

(13) The 12/5/07 and subsequent 3/12/09 SHRT decisions are adopted and incorporated by reference.

### 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Prior to any substantive review, jurisdiction is paramount. Applicable to the case herein, policy states:

#### **Final SSI Disability Determination**

SSA's determination that disability or blindness does **not** exist for SSI purposes is **final** for MA if:

- . The determination was made after 1/1/90, **and**
- . No further appeals may be made at SSA, **or**
- . The client failed to file an appeal at any step within SSA's 60-day limit, **and**

- . The client is **not** claiming:
  - .. A totally different disabling condition than the condition SSA based its determination on, **or**
  - .. An additional impairment(s) or change or deterioration in his condition that SSA has **not** made a determination on.

Eligibility for MA based on disability or blindness does **not** exist once SSA's determination is **final**. PEM, Item 260, pp. 2-3.

Relevant federal regulations are found at 42 CFR Part 435. These regulations provide: "An SSA disability determination is binding on an agency until the determination is changed by the SSA." 42 CFR 435.541(a)(b)(i). These regulations further provide: "If the SSA determination is changed, the new determination is also binding on the agency." 42 CFR 435.541(a)(b)(ii).

In this case, evidence on the record indicates that claimant had an application pending with SSA pursuant to a 4/3/07 application. Pursuant to an updated SOLQ received by the undersigned administrative law judge on 4/5/10 claimant has reapplied with an effective application date of 2/25/10. Thus, claimant has received at least two prior denials by SSA for an SSI application. Claimant's claim was considered by SSA and benefits denied. The determination was final. Claimant is alleging the same impairments. None of the exceptions apply.

For these reasons, under the above-cited policy and federal law, this Administrative Law Judge has no jurisdiction to proceed with a substantive review. The department's denial must be upheld.

As noted above, should the SSA change its determination, then the new determination would also be binding on the DHS.

In the alternative, should the sequential analysis be applied, the undersigned Administrative Law Judge would concur with the findings and conclusions of the SHRT decisions in finding claimant not disabled under federal law and state policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is upheld.

/s/  
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Janice Spodarek  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: May 11, 2010

Date Mailed: May 13, 2010

**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 mailing date of the rehearing decision.

JS/lk

cc:

