

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: 2007-20314
Issue No: [REDACTED]
Case No: [REDACTED]
Load No: 6100020113
Hearing Date:
November 7, 2007
Muskegon 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, a telephone hearing was held.

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 5/9/07, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did not apply for retro MA.
- (3) On 6/28/07, the MRT denied.

- (4) On 7/3/07, the DHS issued notice.
- (5) On 7/9/07, claimant filed a hearing request.
- (6) On February 9, 2010, the undersigned Administrative Law Judge received verification from DDS indicating that claimant had been denied Social Security disability due to “UAFF”—unfavorable hearing decision. Claimant has had a final determination by SSA. None of the exceptions apply.
- (7) On 10/4/07, 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 6/11/08 SHRT once again denied claimant.
- (8) The undersigned Administrative Law Judge was on an extended leave from 8/1/08, returning full time 2/1/09. None of the ALJ’s pending cases were reassigned while on leave; no protected time afforded before or after leave for issuing decisions.
- (9) As of the date of application, claimant was a 31-year-old male standing 6' 2" tall and weighing 225 pounds. Under the medical BMI Index, claimant's BMI is 28.9. Claimant has an associate's degree in applied science.
- (10) Claimant testified that he does not have any alcohol/drug abuse problem but he does have a history for both. Claimant smokes and has a nicotine addiction.
- (11) Claimant does not have a driver’s license based upon self testimony that he had an income tax issue.
- (12) Claimant’s work history is semi-skilled, with a history in engineering tech work.
- (13) Claimant alleges disability on the basis of psychiatric disorder.
- (14) The 10/4/07 and 6/11/08 SHRT decisions are adopted and incorporated by reference herein.

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, there is apparently no dispute relative to the facts. 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, it is noted that should the sequential analysis be applied, the undersigned Administrative Law Judge concurs with the 10/4/07 and 6/11/08 SHRT decisions denying claimant on the basis that the record does not reflex a severe impairment pursuant to 20 CFR 416.921(a).

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.

