

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: 2007-30858

Issue No: 2009; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 31, 2008

St. Clair 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 6/25/07, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did not apply for retro MA.
- (3) On 7/11/07, the MRT denied.
- (4) On 7/24/07, the DHS issued notice.

(5) On 9/10/07, claimant filed a hearing request.

(6) Claimant has an SSI application pending with the Social Security Administration (SSA). Claimant further testified that he has had two prior denials by SSA of an SSI application. Claimant testified that he is alleging the same impairments.

(7) On 12/26/07, 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 2/7/08 SHRT once again denied claimant.

(8) As of the date of application, claimant was a 37-year-old male standing 5' 7" tall and weighing 310 pounds. Claimant is classified as morbidly obese under the BMI Index. Claimant has a high school diploma.

(9) Claimant testified that he does not smoke.

(10) Claimant testified that he does not have an alcohol/abuse problem or history.

(11) Claimant has a driver's license and can drive a motor vehicle.

(12) Claimant is not currently working. Claimant last worked in 2006 in adult foster care as a nurse's aide. Claimant's work history is unskilled.

(13) Claimant alleges disability on the basis of back, hypertension and HIV.

(14) The 12/26/07 SHRT findings and conclusions of its decision are adopted and incorporated by reference herein.

(15) The subsequent 2/7/08 SHRT decision is adopted and incorporated by reference herein.

(16) Claimant testified at the administrative hearing that he probably could do a desk job but that he had difficulty with comprehension and memory. Claimant testified that he could not lift more than 25 pounds. Claimant does not need any assistance with his bathroom and grooming needs. Claimant does his own laundry.

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.

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

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.

Relative federal regulations are found at 42 CFR Part 435. These regulations provide: "An SSA disability determination is binding on the department until the determination is changed by the SSA." 42 CFR 435.541(a)(2)(b)(i). These regulations further provide: "If the SSA determination is changed, the new determination is also binding on the department." 42 CFR 435.541(a)(2)(b)(ii).

In this case, there is no relative dispute as to the facts. While claimant does have a pending SSI application, claimant testified that he has had two prior denials. Claimant further testified under oath that he is alleging the same impairments. Under the above-cited authority, this Administrative Law Judge has no jurisdiction to make a substantive review. As already noted, should the SSA reverse itself, then the new determination would be binding on the state department. None of the exceptions apply.

It is noted that should the sequential analysis be applied in the alternative, this Administrative Law Judge concurs with the State Hearing Review Team's denial on the basis of Medical Vocational Grid Rule 202.20 as a guide.

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

Date Signed: May 14, 2009

Date Mailed: May 14, 2009

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/cv

cc:

