

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: 2008-12460
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 7, 2008
Chippewa County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. 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 three-way telephone conference hearing was held on May 7, 2008.

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 8/22/07, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant applied for retro MA.
- (3) On 10/3/07, the MRT denied.
- (4) On 10/23/07, the DHS issued notice.

(5) On 1/9/07, claimant filed a hearing request.

(6) As of the date of the administrative hearing, claimant had a pending SSI application with SSA.

(7) On 4/9/08, the State Hearing Review Team (SHRT) denied claimant. Pursuant to the record being held open for the submission of new and additional medical documentation, on 6/13/08 SHRT once again denied claimant.

(8) The undersigned Administrative Law Judge was on a scheduled leave of absence 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) On 12/9/09, the undersigned Administrative Law Judge received a Social Security communiqué which indicates a "FREV" decision on behalf of claimant on 9/29/08. The report further states that claimant was a "FUGFEL" status.

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.

Pursuant to the communiqué received from the Social Security Administration, claimant does not have eligibility. Thus, claimant's case is dismissed.

In the alternative, should the sequential analysis be applied, the undersigned Administrative Law Judge would concur with the sequential analysis as applied by the SHRT decisions of 4/9/08 and 6/11/08.

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 G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 18, 2009

Date Mailed: December 23 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.

2008-12460/JS

JS/cv

cc:

