

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: 2008-23351

Issue No: 2027; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 14, 2009

Sanilac County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 on May 14, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine the claimant's Medical Assistance (MA) and State Disability Assistance (SDA) should be terminated in July, 2008?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was a recipient of MA (MA-P) and SDA when the department received a letter from the SSI Advocacy Program that indicated the claimant had not filed an appeal from his SSI application denial of March 20, 2008 (Department Exhibit #2).

2. As the claimant's time limits had run on any appeal, he was no longer considered to be in the process of application or appealing his SSI denial, so the department pended his SDA and MA-P case for closure, as these cases are based on SSI disability (Department Exhibit #1).

3. The claimant turned in his hearing request on June 23, 2008 (prior to the negative action), indicating that he didn't know he had to appeal the decision and that he had re-applied for SSI. The negative action was deleted pending the outcome of this hearing.

CONCLUSIONS OF LAW

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).

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).

Department policy states:

DISABILITY – SDA

DEPARTMENT POLICY

SDA

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older.

Note: There is no disability requirement for AMP. PEM 261, p. 1.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Other Benefits or Services

Persons receiving one of the following benefits or services meet the SDA disability criteria:

- . Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- . Supplemental Security Income (SSI), due to disability or blindness.
- . Medicaid (including spend-down) as blind or disabled if the disability/blindness is based on:
 - .. a DE/MRT/SRT determination, or
 - .. a hearing decision, or
 - .. having SSI based on blindness or disability recently terminated (within the past 12 months) for financial reasons.

Medicaid received by former SSI recipients based on policies in PEM 150 under "**SSI TERMINATIONS,**" INCLUDING "**MA While Appealing Disability Termination,**" does not qualify a person as disabled for SDA. Such persons must be certified as disabled or meet one of the other SDA qualifying criteria. See "**Medical Certification of Disability**" below.

- . Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has an active MRS case. Do not refer or advise applicants to apply for MRS for the purpose of qualifying for SDA.
- . Special education services from the local intermediate school district. To qualify, the person may be:
 - .. attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC); **or**
 - .. not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a school program leading to a high school diploma or its equivalent, **and** is under age 26. The program does not have to be designated as “special education” as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.
- . Refugee or asylee who lost eligibility for Social Security Income (SSI) due to exceeding the maximum time limit PEM, Item 261, pp. 1-2.

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in PEM Item 261.

The Social Security Administration’s (SSA) determination that disability or blindness does not exist for SSI is a final decision for MA purposes if the client fails to file an appeal at any step within the SSA’s 60 day time limits and the client is not claiming a totally different disabling condition than the condition SSA based its determination on or an additional

impairment, change or deterioration in his condition that SSA has not made a determination on. PEM 260, 271. PEM 260 indicates that if the client is claiming a new or different disabling condition or an additional impairment, change or deterioration that SSA has not reviewed, the claimant should be referred to the Medical Review Team (MRT) to determine continued disability or blindness for MA.

In this case, the claimant applied for SSI through the SSA and was denied on March 20, 2008. According to documentation provided by the SSI Advocate, the claimant did not file for a hearing on this decision within the 60 days allowable for hearing requests (Department Exhibit #2). Therefore, the department pended his MA-P and SDA benefits to terminate on July 1, 2008. The claimant submitted a hearing request prior to the negative action taking place and the benefits were continued pending this hearing.

The claimant testified that he has submitted another application for SSI to the SSA. He further testified that this second application was denied and he submitted a timely request for a hearing. The department representative did testify that she had information that he had been denied for SSI by the SSA in February, 2009 so it was possible that he has requested a hearing on this denial. No information was presented by the department to indicate if this application involved a different disability than the previous application, or if the condition was alleged to have changed, deteriorated or if there was an additional impairment included in the second application, which would require referral to MRT. Thus, there is no evidence presented showing the claimant is not still eligible for MA-P due to his pending SSI application and/or hearing request.

Department policy indicates that the SSA's final determination of disability or blindness is not binding for the SDA program. PEM 271. Department policy points out that any Medical Review Team (MRT) determination that the client meets the disability factor continues for SDA

until the next scheduled medical review. PEM 271. Thus, the department needs to undertake a separate analysis of the claimant's SDA eligibility. No evidence was presented by the department to indicate what the results of the claimant's MRT evaluation had been or when the evaluation was conducted. Thus, it is possible that the claimant has continued SDA eligibility due to an MRT determination at least until the next medical review.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department actions are REVERSED. The department shall:

1. Continue the claimant's MA-P and SDA benefits.
2. Evaluate the claimant's continued eligibility for MA-P and SDA by following the departmental policies indicated above.
3. Issue the claimant written notice of any change(s) after the evaluation of his continued MA-P and SDA eligibility.

SO ORDERED.

/s/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 18, 2009

Date Mailed: May 19, 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.

