

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: 2008-29562

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 11, 2008

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Judith Ralston Ellison

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 hearing was held on December 11, 2008. The Claimant and her [REDACTED] at the Macomb County District Office 12.

ISSUE

Whether it is proper to deny Medical Assistance based on disability (MA-P) because the Claimant failed to appeal a Social Security Administrative (SSA) denial of disability?

FINDINGS OF FACT

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

(1) The Claimant filed for MA-P and SDA on June 6, 2008 alleging seizures and learning disorder.

(2) The Claimant filed an application with the Social Security Administration (SSA) April 25, 2008; and SSA denied the application for Supplemental Security Income (SSI) July 8, 2008; and the Claimant did not appeal the SSA denial.

(3) The Claimant testified the SSA evaluated the same impairments and that the condition was treated and improved.

CONCLUSIONS OF LAW

The Medicaid 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 (formerly known as the Family Independence Agency) 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). PEM 260. pp. 2-3 provides:

Final SSI Disability Determination:

SSA's determination that disability or blindness does **not** exist for SSI 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/her 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**.

The Claimant's mother testified to a financial need to pay medical bills. Federal regulations require that the department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

. . . the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months . . . 20 CFR416.905.

The Claimant's mother alleged that the SSA decision had not been received. But the undersigned found the mother testified to facts which were circumstantial evidence of receipt of the notice. The mother testified to the denial by SSA; and that the SSA notice of denial states a denied person can seek medical assistance from the State. The Claimant was seeking benefits based on disability [REDACTED] medical benefits is untimely based on the grant of federal benefits with a finding of disability. According to the testimony of the Department SSA denied disability; and the denial was not appealed.

Based on PEM 260, the undersigned finds the decision to deny/dismiss the application should be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds denial/dismissal proper for the June 6, 2008 application for MA-P and SDA based on a lack of jurisdiction since SSA's decision was final.

The decision made by the Department is hereby AFFIRMED.

/s/

Judith Ralston Ellison
Administrative Law Judge
for Ishmael Ahmed, Director
Department of Human Services

Date Signed: 12/29/08

Date Mailed: 01/06/09

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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JRE

[REDACTED]