

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: 2008-5472
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 26, 2008
Kalamazoo 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 on February 26, 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 3/20/07, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did not apply for retro MA
- (3) On 8/8/07, the MRT denied.
- (4) On 8/9/07, the DHS issued notice.

(5) On 10/4/07, claimant filed a hearing request.

(6) As of the date of the administrative hearing, evidence on the record indicated that claimant was denied SSI on 7/31/07 by SSA with an appeal pending. The undersigned Administrative Law Judge was on an extended leave of absence from August, 2008, returning full time on February 1, 2009. On 5/11/2009, the local office was requested to have an SOLQ issued to the State Office of Administrative Hearings and Rules regarding the status of claimant's SSI application with SSA. The hearings coordinator for Kalamazoo County reissued the entire hearings packet without indicating that claimant has been approved or has re-filed with SSA.

(7) On 1/29/08, the State Hearing Review Team (SHRT) denied claimant.

(8) As of the date of application, claimant was a 50-year-old female standing 4' 11" tall and weighing 115 pounds. Claimant has a 12th grade education.

(9) Claimant does not have an alcohol/drug abuse problem or history. Claimant does smoke a pack of cigarettes per day. Claimant has a nicotine addiction.

(10) Claimant does not have a driver's license testifying it has expired.

(11) Claimant is not currently working. Claimant last worked in 2004 doing road work. Claimant's work history is unskilled.

(12) The 1/29/08 SHRT Decision is adopted and incorporated by reference to the following extent:

... Last worked two years ago. Experience as waitress, flag person, cafeteria worker, stock work. Reads and sleeps in her spare time. Normal CT scan of brain without contrast 1/2007. Normal PA and lateral chest x-ray 1/07. Psychological eval done 7/07 diagnoses claimant with dysthymic disorder and personality disorder. Denied at Step 4.

(13) Claimant alleges disability on the basis of memory deficits, high blood pressure.

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, the undersigned Administrative Law Judge had requested on two different occasions, a copy of the updated SOLQ form indicating the status of claimant's SSI application. On 5/11/2009, the hearings coordinator did not indicate after responding to an inquiry memorandum that claimant had been approved SSI with SSA. Thus, after having been specifically requested to address the issue of the Social Security application, the department's submission of the records do not indicate that claimant received a favorable decision. For these reasons, claimant's denial from the SSA is binding. 42 CFR 435.541(a)(b)(i).

As already noted, should the SSA change its determination, then the new determination would be binding on the DHS.

It is noted in the alternative, that should the sequential analysis be specifically applied to the evidence herein, this Administrative Law Judge concurs with the SHRT decision denying claimant on the basis of 20 CFR 416.920(e).

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 29, 2009

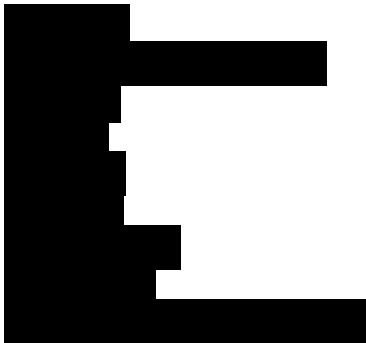
Date Mailed: May 29, 2009

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

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