

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: 2009-10256
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 19, 2009
Ottawa 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, an in-person hearing was held with claimant's representative, [REDACTED]. Claimant did not appear.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P)?

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 7/31/07 claimant applied for MA-P with the Michigan DHS.
- (2) Claimant applied for three months of retro MA.
- (3) On 9/30/08 the MRT denied.

- (4) On 10/13/08 the DHS issued notice.
- (5) On 12/9/08 claimant filed a hearing request.
- (6) On 1/22/09 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 2/12/10 SHRT once again denied claimant.
- (7) On 2/20/09 the undersigned Administrative Law Judge received an SOLQ verification from the local office indicating that on 8/23/07 claimant applied for SSI but with SSA. On 3/10/08 claimant was denied SSI. Claimant's SSA application subsequent to the application at issue herein: None of the exceptions apply. Claimant has had a final determination by SSA.
- (8) As of the date of application, claimant was a 30-year-old female standing 4'11 tall and weighing 154 pounds. Claimant has a 10th grade education.
- (9) Claimant was not present at the administrative hearing for testimony and/or cross examination regarding alcohol/drug abuse problems or history and/or nicotine usage.
- (10) Claimant was not present at the administrative hearing for testimony and/or cross examination regarding a driver's license.
- (11) Claimant was not present at the administrative hearing for testimony and/to be subject to cross examination with regards to work and whether or not claimant is or has been working.
- (12) Claimant alleges disability on the basis of kidney disease.
- (13) The 1/22/09 and subsequent 2/12/2010 SHRT decisions are adopted and incorporated by reference herein.

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).

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, there is apparently no dispute relative to the facts. Claimant's claim was considered by SSA and benefits denied. The determination was final. As claimant's SSA application was one month after the DHS application herein, the alleged impairments are the same or less than those alleged herein. None of the exceptions apply.

For these reasons, under the above-cited policy and federal law, this Administrative Law Judge has no jurisdiction to proceed with a substantive review. The department's denial must be upheld.

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

It is also noted that claimant was not available at the administrative hearing for testimony and/or cross examination. Claimant did not appear. Claimant's failure to appear at the administrative hearing resulted in claimant's inability to meet her burden of proof pursuant to 20 CFR 416.912(c) and 416.920(b).

It is noted in the alternative, that should this sequential analysis, claimant will be denied for the reasons set forth in the SHRT decisions.

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: February 26, 2010

Date Mailed: March 1, 2010

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/lk

cc:

