

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:



Reg No. 200916339
Issue No. 2009/4031
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: July 29, 2009
Iron County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 29, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

FINDINGS OF FACT

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

1. Claimant is a 51-year-old male who lives alone in low income housing in [REDACTED].
2. Claimant has a general equivalency diploma (GED); he used to work in construction with his uncle in [REDACTED] until the jobs dried up in 2007, at which time, he re-located to [REDACTED].

3. As of claimant's MA/SDA disability hearing date (7/29/09), he was working sporadically, on a part-time, fill-in basis as a restaurant dishwasher.
4. On January 21, 2009, claimant filed a disability-based MA/SDA application.
5. When the department denied claimant's application he requested a hearing, held by conference telephone on July 29, 2009.
6. Claimant alleges he is disabled due to low back pain, leg pain and gout.
7. The previous year, specifically on January 10, 2008, claimant filed a Social Security Administration (SSA) disability application.
8. When the SSA denied that application claimant filed an appeal on May 29, 2008.
9. Claimant alleged the same impairments in support of his SSA disability application that he alleged when he filed his disputed MA/SDA application.
10. On January 29, 2010, the SSA issued an unfavorable Hearing Decision denying disability benefits to claimant, per a computerized cross-check (SOLQ) received by this Administrative Law Judge on September 28, 2010.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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).

Jurisdiction must be established for a contested case review of departmental actions before a decision on the merits of the case can be made. The applicable departmental 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.

The relevant federal regulations are found at 42 CFR Part 435. These regulations provide: "An SSA disability determination is binding on an agency until that determination is changed by the SSA." 42 CFR 435.541(a)(2)(b)(i). This regulation also provides: "If the SSA determination is changed, the new determination is also binding on the department." 42 CFR 435.541(a)(2)(b)(ii). These federal mandates have been incorporated into the department's policy at BEM Item 260.

The evidence of record in this case verifies claimant received a final SSA denial on January 29, 2010, per issuance of the SSA's unfavorable Hearing Decision. No further appeals of that application have been filed and claimant is now alleging impairments identical to the ones the SSA has already reviewed. Consequently, under the above-cited federal regulations and state policy, no jurisdiction exists for this Administrative Law Judge to proceed on the merits of this case. The status quo must remain intact. The department's action must remain upheld.

