

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

IN THE MATTER:

[REDACTED]

Reg No. 200922364
Issue No. 2009/4031
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: August 19, 2009
Dickinson 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 August 19, 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 divorced, 49-year-old heavy smoker (1+ packs per week) with a general equivalency diploma (GED) who resides with his mother in [REDACTED].
2. On March 12, 2009, claimant applied for disability-based medical coverage (MA) and a monthly cash stipend because he was unemployed and he has remained unemployed since July 2008, when he left a month long welding job due to health concerns.
3. Claimant's past relevant work history includes CDL certified long distance trucking in addition to welding, but he has not done either in several years (Department Exhibit #1, pg 46).

4. Claimant alleges disability based on multiple physical impairments across a wide variety of body systems, including cervical spine degeneration, poorly controlled hypertension, bilateral leg/arm/shoulder/lower back pain and chronic obstructive pulmonary disease (COPD).
5. Claimant also applied for Social Security Administration (SSA) disability benefits alleging impairments identical to those he now uses in an attempt to support his MA/SDA disability claim.
6. On December 10, 2008, claimant testified at his SSA disability hearing by video conference with legal representation present.
7. On December 24, 2008 (three months before claimant's disputed MA/SDA application was filed), the SSA Administrative Law Judge issued an Unfavorable Hearing Decision finding claimant capable of performing at least sedentary work pursuant to Medical Vocational Rule 201.18.
8. The SSA's decision, in its entirety, was provided to this Administrative Law Judge upon a post-hearing review of claimant's medical records by the department's State Hearing Review Team (SHRT) doctors.
9. SHRT's post hearing decision, dated October 15, 2009, states in relevant part:

Pulmonary Function Studies (PFS) indicate mild chronic obstructive pulmonary disease (COPD) only. Independent Medical Examination (IME) narrative details findings consistent with remainder of medical evidence. Hypertension is noted to be well-controlled with current treatment, noted for some stiffness in the cervical region. There is no stiffness or tenderness in the lumbosacral region or in the knees...

...This case has had multiple reviews, including by the Social Security Administration, including an Administrative Law Judge review...(See Finding of Fact #5-#7 above).

10. Additionally, a computerized cross-check of the SSA's records (SOLQ) provided to this Administrative Law Judge on September 14, 2010 verifies no further appeals were taken after the SSA's December 24, 2008 disability disallowance was issued.

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 of the merits of the case can be made. This same standard is applied in SDA cases. 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 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 in the department's policy at BEM Item 260.

The evidence of record in this case verifies claimant received an unfavorable SSA decision on December 24, 2008. Claimant did not appeal that decision. 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.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's denial of claimant's March 12, 2009 MA/SDA application was correct.

Accordingly, the department's decision is AFFIRMED.

/S/
Marlene B. Magyar
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 22, 2010

Date Mailed: November 23, 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 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.

MBM/db

cc:

