

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: 2009-24051
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 18, 2009
Montmorency 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 claimant's request for a hearing. After due notice, an in-person hearing was held on November 18, 2009. Claimant personally appeared and testified.

ISSUE

Is claimant eligible for disability-based Medicaid (MA)?

FINDINGS OF FACT

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

- (1) Claimant is a 49-year-old high school graduate who is a self-employed, licensed builder (Department Exhibit #1, pgs 149-150).
- (2) The department approved claimant's July 9, 2008 MA/retro-MA application with a mandatory review scheduled in April 2009 (Department Exhibit #1, pg 95).

(3) At review, the department computer cross-checked the status of claimant's Social Security disability application, filed June 24, 2008 and found the Social Security Administration (SSA) denied that application on September 18, 2008 (Department Exhibit #1, pg 110).

(4) On April 10, 2009, the department mailed claimant written notice advising him that MA benefit continuation also was being denied, effective May 1, 2009 (Department Exhibit #1, pgs 155 and 156).

(5) Claimant filed a hearing request on April 21, 2009, which contends his genetic condition (Marfans Syndrome) is permanent, and thus, he must be qualified as permanently disabled (Department Exhibit #1, pg 157).

(6) This is the same condition (with its residual health problems) claimant contended was disabling on the Social Security disability application referenced in Finding of Fact #3 above.

(7) Claimant's Michigan disability hearing was held on November 18, 2009.

(8) At hearing, claimant testified he did not appeal the SSA's denial of his June 24, 2008 disability application.

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).

Jurisdiction must be established for a contested case review of departmental action 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 corresponding, 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).

The evidence of record in this case verifies claimant received a final denial from the SSA on September 18, 2008. Claimant is now alleging impairments identical to those the SSA has already reviewed. Consequently, under the above-cited federal regulation 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 claimant is not eligible for disability-based MA.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 30, 2009

Date Mailed: December 1, 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 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:

