

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: 2009-33131
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 29, 2009
InghamCounty DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 September 29, 2009. Claimant personally appeared and testified. Also appearing on claimant's behalf was [REDACTED]

[REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro 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 March 9, 2009, claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.

(2) On April 23, 2009, the Medical Review Team denied claimant's application stating that he was capable of past relevant work per 20 CFR 416.920(E).

(3) On June 27, 2009, the department caseworker sent claimant notice that his application was denied.

(4) On July 14, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On August 31, 2009, the State Hearing Review Team (SHRT) again denied claimant's application citing insufficient information. SHRT requested updated medical records from 12/08 to current, from claimant's physicians, and copies of any testing from 11/08 to current.

(6) The hearing was held on September 29, 2009. At the hearing, claimant waived the time limits to leave the record open and obtain additional medical information.

(7) Additional medical information was submitted on January 22, 2010 and sent to SHRT for review on January 25, 2010.

(8) On January 26, 2010, the SHRT denied claimant's application stating that the medical evidence of record indicates he retains the capacity to perform a wide range of sedentary exertional work with the following limitations: unable to use ropes, ladders, scaffolding, stairs, ramps, unprotected heights or dangerous machinery. Claimant can also not be exposed to extreme cold, pulmonary irritants and is only able to perform simple and repetitive tasks. SHRT cited Vocational Rule 201.27 as a guide.

(9) SHRT also enclosed an unfavorable decision of a Social Security Administration (SSA) Administrative Law Judge dated December 23, 2009, stating that the claimant was capable of sedentary work with above-cited limitations.

(10) On May 5, 2010 the Administrative Law Judge obtained the SOLQ Data from SSA report regarding information about claimant's application with SSA. This report shows that the claimant has not appealed SSA Administrative Law Judge's December 23, 2009 decision to SSA Appeals Council.

(11) Claimant alleges as disabling impairments: Hepatitis B and A, non Hodgkin's lymphoma, lung collapse from chemotherapy, and chronic obstructive pulmonary disease. These are the same impairments cited in the unfavorable decision of the SSA Administrative Law Judge of December 23, 2009.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Departmental policy states that SSA's final determination that the client is not disabled/blind for SSI takes precedence over department's determinations. SSA's determination that disability or blindness does not exist for SSI is final for MA if:

1. The determination was made after 1/1/90, **and**
2. No further appeals may be made at SSA, **or**
3. The client failed to file an appeal at any step within SSA's 60 day limit, **and**
4. 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**. BAM 260.

Claimant received an unfavorable decision on his SSI claim from SSA's Administrative Law Judge dated December 23, 2009. This decision and departmental policy quoted above require that the claimant file an appeal to the SSA's Appeals Council within 60 days. Claimant has not filed an appeal as of May 5, 2010. In addition, this Administrative Law Judge has reviewed SSA's hearing decision and finds that the claimant has not cited any additional impairments or deterioration in his condition that were not addressed in that decision. SSA's determination that he is not disabled for SSI has therefore become a final determination, and MA based on disability or blindness does not exist.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance and retroactive Medical Assistance benefits.

Accordingly, the department's decision is AFFIRMED. SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 10, 2010

Date Mailed: May 10, 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 receipt date of the rehearing decision.

IR/tg

cc:

