

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: 2009-36684
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 29, 2009
St. Clair County 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 October 29, 2009. Claimant personally appeared and testified. Also appearing and testifying on claimant's behalf was his friend [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 January 28, 2009, claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.

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

(3) On April 22, 2009, the department caseworker sent claimant notice that his application was denied.

(4) On July 21, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On October 5, 2009, the State Hearing Review Team (SHRT) again denied claimant's application stating he was capable of performing other work, namely light work per Vocational Rule 202.13.

(6) The hearing was held on October 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 December 1, 2009 and sent to SHRT for review on this date.

(8) On December 7, 2009, the SHRT denied claimant's application stating that the new evidence presented by the claimant is not significant to the previous findings as it does not materially change the prior findings from the SHRT decision dated October 5, 2009.

(9) SHRT also enclosed an unfavorable decision of a Social Security Administration (SSA) Administrative Law Judge dated November 19, 2009, stating that the claimant was capable of performing light exertional tasks with limitations of being unable to reach with right upper extremity, unable to climb ropes, ladders or scaffolding, unable to use foot pedal bilaterally, and needing a sit/stand option every hour.

(10) SHRT also noted that the findings of the Social Security Administration Administrative Law Judge are being adopted as the Social Security Administration has final authority, and that the additional evidence provided does not materially alter the prior decisions.

(11) On May 19, 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 November 19, 2009 decision to SSA Appeals Council.

(12) Claimant alleges as disabling impairments: chronic cervical pain, cord compression, sciatica, trigeminal neuralgia, hypertension, status post-surgery of foot, chronic foot pain and osteoarthritis of the big toe. These are the same impairments cited in the unfavorable decision of the SSA Administrative Law Judge of November 19, 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 (RFT).

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 November 19, 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 19, 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 26, 2010

Date Mailed: May 26, 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:

