

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: 2009-1222

Issue No: 2018/4008

Case No: [REDACTED] 5

Load No: [REDACTED]

Hearing Date:

May 27, 2009

Kalamazoo 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, a telephone hearing was held on May 27, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly propose to close claimant's Medicaid (MA) and State Disability Assistance (SDA) cases at her mandatory review in 2008?

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 60-year-old female who filed a Social Security disability application on July 27, 2007 (Department Exhibit #1, pg 3).
- (2) That application was denied on December 21, 2007, and claimant did not appeal the denial (Department Exhibit #1, pgs 2 and 3).

(3) When claimant's MA/SDA cases came up for the mandatory annual review in August, 2008, the local office discovered claimant's initial Social Security application had been denied and no appeal was pending.

(4) On September 17, 2008, the local office put claimant's MA/SDA cases into closure status, thereby generating a negative action notice to claimant at her address-of-residence (Department Exhibit #1, pg 5).

(5) In response, claimant filed a timely hearing request; consequently, claimant's MA/SDA closure was deleted pending issuance of this Hearing Decision.

(6) At hearing on May 27, 2009, claimant reported she has since re-filed another Social Security disability application which is still in the processing phase.

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).

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).

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.

DHS can **never** delete the negative action if the SSI disability/blindness denial is final as defined in [PEM 260](#).

Send the AHR or, if none, the client a photocopy of the original DHS-4675, Disability Determination Notice, as a reminder of **all** of the following:

- Appeals regarding SSA's disability/blindness determination **cannot** be resolved by DHS.
- An appeal regarding SSA's disability/blindness determination may be filed at SSA.
- The negative action will take effect **unless** DHS receives proof that an appeal is pending at SSA.
- SSA must receive the request to appeal before the 60-day appeal deadline.

Failure to file a timely appeal at SSA might result in loss of MA benefits that DHS **cannot** restore. PAM Item 600, pg 18.

The local office followed this policy in claimant's case; consequently, their proposed MA/SDA case closure action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly proposed to close claimant's MA/SDA cases at her mandatory review in 2008.

Accordingly, the department's action is AFFIRMED.

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

Date Signed: May 27, 2009

Date Mailed: May 28, 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.

2009-1222/mbm

MBM/db

cc:

