

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: 2009-20286  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 23, 2009  
Branch County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 conference hearing was held.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) application?

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 1/14/09, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did not apply for retro MA.
- (3) On 2/25/09, the MRT denied.
- (4) On 3/2/09, the DHS issued notice.

(5) On 3/03/09, claimant filed a hearing request.

(6) Claimant has been denied SSI by the Social Security Administration (SSA).

Claimant testified that he had a denial by a federal Administrative Law Judge denying him disability benefits under the Social Security program. Claimant testified that he is alleging the same impairments. None of the exceptions apply.

(7) On 5/11/09, the State Hearing Review Team (SHRT) denied claimant.

(8) As of the date of application, claimant was a 44-year-old male standing 5' 11" tall and weighing 130 pounds. Claimant has a GED.

(9) Claimant testified that he does not have an alcohol/drug abuse problem or history. SHRT finds to the contrary, in noting that claimant has a history of alcohol abuse/dependence. SHRT cited the materiality of PL 104-121 for unknown reasons as no disability was found. Claimant smokes and has a nicotine addiction.

(10) Claimant does not have a driver's license due to having lost it due to a DUI.

(11) Claimant is not currently working. Claimant last worked in 2007, where claimant indicates "job ended." Claimant has an unskilled work history. Claimant lists his prior jobs as janitorial and industrial.

(12) Claimant alleges disability on the basis of depression, anxiety, substance abuse, degenerative disc disease, high blood pressure.

(13) The SHRT findings and conclusions of its 5/11/09 decision are adopted and incorporated by reference herein.

(14) Claimant testified at the administrative hearing that he lives with his mother and assists with the chores as much as possible. Claimant fixes meals, shops, vacuums, does dishes, laundry, etc. Claimant does some yard work.

(15) Claimant testified that he is not alleging that he is incapable of doing different types of work.

### 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).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Prior to any substantive review, jurisdiction is paramount. Applicable to the case herein, 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.

Relevant federal regulations are found at 42 CFR Part 435. These regulations provide:

“An SSA disability determination is binding on an agency until the determination is changed by the SSA.” 42 CFR 435.541(a)(b)(i). These regulations further provide: “If the SSA determination is changed, the new determination is also binding on the agency.” 42 CFR 435.541(a)(b)(ii).

In this case, there is apparently no dispute relative to the facts. Claimant's claim was considered by SSA and benefits denied. The determination was final. Claimant is alleging the same impairments. None of the exceptions apply.

For these reasons, under the above-cited policy and federal law, this Administrative Law Judge has no jurisdiction to proceed with a substantive review. The department's denial must be upheld.

As noted above, should the SSA change its determination, then the new determination would also be binding on the DHS.

It is noted in the alternative, that should the sequential analysis be applied, the undersigned Administrative Law Judge would concur with the SHRT decision with the exception of the cite with regards to the materiality of the drug and alcohol abuse as that step in the analysis would not be reached when there is a denial due to a non-severe impairment. 20 CFR 416.921(a), .214, .935-.941.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is UPHELD.

/s/ \_\_\_\_\_  
Janice Spodarek  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 14, 2009

Date Mailed: August 14, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

JS/cv

cc:

