

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: 2009-2179

Issue No: 2009; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 9, 2009

Clare County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 June 9, 2009.

ISSUE

Whether the Department of Human Services (department) properly complied with department policy when it determined claimant's eligibility for Medical Assistance (MA) and State Disability Assistance (SDA).

FINDINGS OF FACT

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

(1) During May 2008, claimant was receiving MA and SDA. Claimant's case was due for medical review.

(2) June 15, 2008, the Medical Review Team declined to decide claimant's disability for MA purposes due to a final and binding decision from the Social Security Administration (SSA). MRT denied claimant's SDA disability. Department Exhibit (Department) A.

(3) June 25, 2008, the department sent claimant written notice that his assistance would terminate.

(4) June 30, 2008, the department received claimant's timely request for hearing.

(5) June 9, 2009, the telephone hearing was held.

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).

If the client is not eligible for RSDI based on disability or blindness:

- The Medical Review Team (MRT) certifies disability.
- The State Review Team (SRT) certifies blindness.

The Social Security Administration's (SSA's) final determination that the client is not disabled/blind for SSI, not RSDI, takes precedence over an MRT/SRT determination. See "Final SSI Disability Determination" below.

Final SSI Disability Determination

SSA's determination that disability or blindness does not exist for SSI is final for MA if:

The determination was made after 1/1/90, and

- No further appeals may be made at SSA (see "[EXHIBIT II](#)" in this item), 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.

Program Eligibility Manual (PEM) 260;

Disability

42 CFR 435.540, .541
MCL 400.106

Blindness

42 CFR 435.530, .531
MCL 400.106

A person is disabled for SDA purposes if he:

- Receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- Resides in a qualified Special Living Arrangement facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency

PEM 261; Annual Appropriations Act

In this case, claimant was receiving MA, but received a final and binding decision from the SSA denying his disability. Finding of Fact 1-2. As such, claimant is not disabled for MA purposes. After hearing of the impending closure, claimant reapplied for SSA benefits and asserted an additional impairment, Hepatitis C. Claimant sworn testimony. Claimant's actions after the fact does not relieve the department of the obligation to comply with department policy and terminate claimant's MA due to the final decision from SSA. PEM 260.

The SDA policy does not assert that a final decision from SSA is binding on SSA disability determination. PEM 261. Accordingly, the department was in error to propose closure due to the final and binding decision from SSA. Other possible reasons for department closure of SDA are not at issue in this hearing and so are not addressed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that department properly proposed to terminate claimant's Medical Assistance due to a final and binding decision from Social Security Administration. The department was in error when it proposed to terminate claimant's State Disability Assistance due to the final and binding decision from SSA.

Accordingly, the department's action regarding claimant's MA is HEREBY UPHELD.

The department's action regarding claimant's SDA is HEREBY REVERSED. If it has not already done so, the department is to initiate a determination of claimant's eligibility for SDA in compliance with department policy and this decision and order.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 16, 2009

Date Mailed: June 17, 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.

JAB/db

cc:

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