

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: 2009-2471
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 17, 2009
Berrien 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 February 17, 2009. Claimant and his girlfriend personally appeared and testified.

ISSUE

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

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 divorced, 53-year-old male with a general equivalency diploma (GED) who lives independently in low income housing across the street from his mother's residence (Department Exhibit #1, pgs 135 and 136).

(2) Claimant has a sporadic, unskilled employment history; he last worked in a 2005 temporary services factory position in Indiana before returning to [REDACTED] in 2006, per self report at hearing.

(3) Claimant's medical history is positive for seizure disorder first diagnosed in childhood, per self report (Department Exhibit #1, pg 105).

(4) On September 24, 2008, the department's Medical Review Team (MRT) denied continuation of claimant's disability-based medical coverage (MA) and monthly cash grant (SDA) based on a finding he was no longer eligible; consequently, claimant filed a timely hearing request (Department Exhibit #1, pgs 1 and 2).

(5) Claimant also appealed the Social Security Administration's (SSA's) disability disallowance.

(6) On June 4, 2007, the SSA issued an unfavorable decision (Department Exhibit #1, pgs 7-18).

(7) On May 23, 2008, the SSA's Appeals Council denied claimant's request for review of that decision which states in relevant part:

We found no reason under our rules to review the administrative law judge's decision. Therefore, we have denied your request for review (Department Exhibit #1, pgs 19-24).

(8) On February 17, 2009, claimant's MA/SDA denial hearing was held.

(9) At this hearing, claimant alleged impairments identical to those the SSA had already reviewed, namely his longstanding seizure disorder and a 2006 hepatitis diagnoses.

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).

Jurisdiction must be established for contested case review of departmental action before a decision on the merits of the case can be made. 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.

The relevant federal regulations are found at 42 CFR Part 435. These regulations provide: "An SSA determination is binding on an agency until that determination is changed by the SSA." 42 CFR 435.541(a)(2)(b)(i). This regulation also provides: "If the SSA determination is changed, the new determination is also binding on the department." 42 CFR 435.541(a)(2)(b)(ii). These federal mandates have been incorporated in the department's policy at BEM Item 260.

The evidence of record in this case verifies claimant received a final SSA denial from the Appeals Council in 2008. Claimant is now alleging impairments identical to those the SSA has already reviewed. Consequently, under the above-cited federal regulations and state policy, no jurisdiction exists for this Administrative Law Judge to proceed on the merits of this case. The status quo must remain intact. The department's action must remain upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's denial action was correct.

Accordingly, the department's action is **AFFIRMED**.

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

Date Signed: February 1, 2010

Date Mailed: February 2, 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 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.

MBM/db

cc:

