

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: 2009-771
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 9, 2009
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on March 9, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is no longer "disabled" for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) programs?

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 has been an ongoing recipient of MA-P and SDA benefits based upon a September 27, 2005 application for benefits.

(2) On August 13, 2008, the department notified claimant that it intended to terminate claimant's MA-P and SDA benefits based upon the belief that claimant was no longer disabled.

The notice indicated that claimant's case would close on August 26, 2008.

(3) On August 26, 2008, claimant's MA-P and SDA case was terminated.

(4) On September 17, 2008, claimant filed a hearing request to protest the department's negative action.

(5) Claimant, age 59, has a high school education and some college.

(6) Claimant is currently performing odd jobs such as indoor painting, plumbing, and maintenance work. Claimant testified that, if such work was available, he would be working 20 to 25 hours a week.

(7) Claimant's past relevant work includes work as a party store owner and operator; performing restoration and remodeling of an older home; and performing odd jobs such as maintenance, plumbing work, and painting.

(8) Claimant has a history of a closed head injury.

(9) At the hearing, claimant complained of headaches, neck pain, and anxiety with shortness of breath and dizziness.

(10) On September 26, 2008, a Social Security Administrative Law Judge issued a decision in which claimant was found not disabled for purposes of Social Security benefits. Claimant did not appeal the decision.

(11) The Social Security Administration final determination regarding claimant's disability involved the same conditions as that considered by the department.

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).

Relevant departmental policy in this matter is as follows.

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.

In this case, claimant acknowledged at the hearing that, when evaluating claimant, the Social Security Administrative Law Judge considered the same condition as was considered by

the department in this matter. Claimant acknowledged that he did not appeal the Social Security Administration determination. The Social Security decision that claimant is not disabled for purposes of Social Security benefits is now final. Eligibility for MA and SDA based upon disability does not exist once the Social Security determination is final. As such, the department's determination in this matter must be upheld. Further, the record supports the finding that claimant is currently engaged in substantial gainful activity. Claimant testified that he is currently working, doing odd jobs such as indoor painting, plumbing, and maintenance. Claimant is clearly no longer disabled. The department's decision in this matter must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is no longer "disabled" for purposes of the Medical Assistance and State Disability Assistance programs.

Accordingly, the department's decision in this matter must be AFFIRMED.

/s/ _____
Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/7/09

Date Mailed: 5/8/09

2009-771/LSS

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.

LSS/at

cc:

