

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.: 2010-12335

Issue No.: 2006/4003

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

September 21, 2009

Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on September 21, 2009. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Was the department correct in denying Claimant's MA and 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. Claimant applied for MA-P and SDA on March 16, 2009.
2. The Medical Review Team denied the applications on April 23, 2009.
3. Claimant filed a request for hearing on May 18, 2009 regarding SDA, MA and Food Assistance. The Food Assistance benefit issue was addressed in a separate decision.
4. A hearing was held on September 21, 2009.

5. Following hearing, Claimant was ordered to undergo a mental status examination and IQ testing.
6. Claimant's file was sent to the State Hearing Review Team on November 30, 2009.
7. On December 21, 2009 the State Hearing Review Team denied the application for insufficient evidence and requested an independent physical consultative examination by an internist.
8. On December 29, 2009 this Administrative Law Judge issued an Interim Order instructing the Department to schedule the examination requested by the State Hearing Review Team.
9. The Department scheduled two medical appointments for the Claimant with Health Medical Clinic for January 19, 2010 to complete the requested examination.
10. Claimant did not appear for these appointments on January 19, 2010 and did not give explanation.

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 (formerly known as the Family Independence Agency) 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).

Pursuant to Federal Rule 42 CFR 435.540, the Family Independence Agency uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

Pursuant to Department policy, a client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you should deny the application or close the case. BEM 260

Under Social Security Administration regulations, if an individual fails to cooperate by appearing for a physical or mental examination by a certain date without good cause, there will not be a finding of disability. 20 CFR 416.994(b)(4)(ii).

In the present case, Claimant has failed to cooperate by failing to appear for a scheduled medical examination. Pursuant to federal regulation and Department policy his application must be denied. BEM 260, 20 CFR 416.994(b)(4)(ii)

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that Claimant is NOT DISABLED and therefore the Department's denial of his application for Medical Assistance and State Disability Assistance is AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/20/2010

Date Mailed: 4/20/2010

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.

AM/jlg

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