

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201017278

Issue No: 2009

[REDACTED]

[REDACTED]

Hearing Date: March 17, 2010

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. 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, an in-person hearing was held March 17, 2010. The record closed in this matter on August 4, 2011. Claimant was represented at the administrative hearing by [REDACTED], collecting on behalf of a hospital.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) 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 October 19, 2009, claimant applied for MA-P with the Michigan DHS.
2. Claimant applied for three months of retro MA.
3. On October 23, 2009, the MRT denied.
4. On October 28, 2009, the DHS issued notice.
5. On January 20, 2010, claimant filed a hearing request.
6. On February 8, 2010, the State Hearing Review Team (SHRT) denied claimant. Pursuant to claimant's request to hold the record open for the

submission of new and additional medical documentation, on August 4, 2011, SHRT once again denied claimant.

7. On September 3, 2011, the undersigned Administrative Law Judge received verification indicating the Social Security Administration denied claimant at the Appeals Counsel pursuant to a decision issued on July 15, 2011 by Judge Gartner. Claimant has been denied SSI by the Social Security Administration (SSA). Claimant has had a final determination by SSA. None of the exceptions apply.
8. As of the date of application, claimant was a 38-year-old male standing 5'6" tall and weighing 276 pounds (July 2009). Claimant's BMI Index was well over the morbid obesity rating. As of the date of application, claimant weighed 218 pounds classifying claimant as obese. Claimant has an 11th grade education.
9. Claimant does not have an alcohol/drug abuse problem or history. Claimant has a history of smoking approximately two packs of cigarettes per day. Claimant has a nicotine addiction.
10. Claimant testified that he does not have a driver's license due to unpaid tickets.
11. Claimant is not currently working. Claimant last worked in July 2009. Claimant's work history is unskilled.
12. Claimant alleges disability on the basis of asthma, COPD, muscle spasms/cramps, AIDS.
13. The February 8, 2010 and August 4, 2011 SHRT decisions are adopted and incorporated by reference herein.
14. The July 15, 2011 Social Security Appeals Counsel Decision is adopted and incorporated by reference herein.

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).

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, evidence indicates that claimant appealed a denial by an Administrative Law Judge with SSA. On July 15, 2011, the Appeals Counsel denied claimant's appeal indicating that under the federal statutory law and regulations, claimant is not disabled. 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.

Claimant's factual situation is exactly why 42 CFR 435.541 was written. Claimant has received a final determination. It is irrelevant if claimant reapplies at this point in time as the law does not allow jurisdiction on the state agency as the denial is within the time period barring the State of Michigan from doing a substantive review.

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.

In the alternative, should the sequential analysis be applied, the undersigned Administrative Law Judge would concur with the findings and conclusions of the SHRT decisions in finding claimant not disabled under federal law and state policy.

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 G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 23, 2011

Date Mailed: September 27, 2011

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.

JGS/db

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