

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: 2010-34622
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2010
Lenawee 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, an in-person hearing was held on June 16, 2010. Claimant personally appeared and testified. He was assisted by [REDACTED]

ISSUE

Did the department properly determine claimant's disability status for Medicaid (MA) and retro-Medicaid (retro-MA) eligibility purposes?

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 60-year-old male who applied for MA/retro-MA on November 18, 2009, with a request for retro-MA to begin in the month of October 2009.

(2) Additionally, claimant applied for Social Security disability benefits during the same time period and that application was approved via a Supplemental Security Income Award Notice dated May 25, 2010 (Client Exhibit A, pgs 1-7).

(3) The Social Security Administration (SSA) determined claimant was disabled based on his impaired cardiac condition, with onset established as of November 2009, but not earlier.

(4) In this case, claimant requested retro-MA coverage beginning in the month of October 2009, because he underwent double coronary bypass surgery with arterial grafting on October 15, 2009 (Department Exhibit #1, pgs 16 and 17).

(5) Claimant was hospitalized from October 13, 2009 to October 20, 2009 for this surgery and for the necessary pre/post treatment associated with it.

(6) After claimant was discharged his cardiologist required use of supplemental oxygen throughout the next month.

(7) Additionally, claimant continued to recuperate at home; he maintained medication compliance on the standard cardiac drugs (Department Exhibit #1, pgs 5 and 6).

(8) On April 2, 2010 (5 months post surgery), claimant's treating cardiologist completed a Medical Examination Report (DHS-49) which stated claimant was still physically incapable of working due to his cardiac problems with complications associated from claimant's longstanding Graves Disease diagnosis (Department Exhibit #1, pgs 5 and 6).

(9) On May 21, 2010, the department's State Hearing Review Team (SHRT) continued the denial of claimant's disputed MA/retro-MA application (Department Exhibit #2, pgs 1 and 2).

(10) Claimant's hearing was held in-person on June 16, 2010.

(11) At hearing, claimant testified credibly that his physical condition actually was worse in October 2009 than it was when the SSA finally granted permanent disability status in November 2009, because that was the month claimant underwent surgery for the condition now being deemed disabling under SSA rules.

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).

In the present case, the Social Security Administration's (SSA's) disability allowance, received while claimant's MA/retro-MA appeal was pending, conclusively establishes claimant is disabled and was disabled at all times relevant to his November 18, 2009 MA/retro-MA application. This is because the department's policy actually specifies three months retro-MA coverage is available prior to the application month under these circumstances, and also, because the department has failed to put forth any credible evidence to establish claimant was not disabled in October 2009, since he was in the hospital much of that month. As such, the department's denial of claimant's disputed application cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erroneously denied claimant's disputed November 18, 2009 MA/retro-MA application based on additional evidence received after the hearing.

Accordingly, the department's denial is REVERSED, and this case is returned to the local office for application reinstatement and reprocessing with retro-MA benefits awarded for the entire period as long as claimant met all of the other financial and non-financial requirements necessary to receive them. Additionally, a medical review of claimant's condition is not necessary in lieu of the SSA allowance. **SO ORDERED.**

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

Date Signed: August 24, 2010

Date Mailed: August 24, 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.

2010-34622/mbm

MBM/db

cc:

