STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

                Claimant

Reg. No: 2010-4548
Issue No: 2009/4031
Case No:
Load No:
Hearing Date:
December 15, 2009
Kent 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 December 15, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant's Medicaid (MA) and State Disability Assistance (SDA) disability status 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)   On August 28, 2009, the department notified claimant his ongoing case was being proposed for closure based upon a finding of improvement at medical review.

(2)   Claimant promptly requested a hearing, at which, the presiding Administrative Law Judge extended the record for an updated, independent physical evaluation.

(3)   While claimant's appeal was pending, the Social Security Administration (SSA) determined claimant was disabled under their rules, with disability onset established as of March 1, 2009.

(4)   The department provided this Administrative Law Judge with verification of SSA entitlement and eligibility begin date on May 24, 2010.

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).

In the present case, the Social Security Administration's (SSA's) disability allowance, received while claimant's appeal was pending, currently establishes claimant is disabled and has been disabled at all times relevant to his hearing request protesting the department's unfavorable decision. As such, the department's erroneous MA/SDA denial at review simply cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining claimant's disability status at review.

Accordingly, the department's decision is REVERSED, and the disputed action must be deleted, as long as claimant meets all the other financial and nonfinancial requirements necessary to receive them. 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: June 8, 2010

Date Mailed: June 9, 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

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