

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201049642
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 10, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

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 November 10, 2010. The claimant appeared and testified. The Claimant was represented by his/her Authorized Representative (AR)

[REDACTED]

ISSUE

Whether the Department was correct in denying the claimant's application for MA and retroactive MA?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. On March 26, 2010, the claimant's AR filed an application for MA and retroactive MA.
2. On May 24, 2010, the department denied the claimant's MA and retroactive MA applications.
3. On June 25, 2010, the claimant's AR filed a request for a hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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

201049642/MJB

Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case the department testified that the Social Security Administration (SSA) denied the claimant's MA.

Final SSI Eligibility Determination

Once SSA's decision is **final**, the local office **must take the following actions**:

For clients receiving MA, SSA's determination that disability or blindness **does not exist** for SSI is **final and the MA case must be closed** if:

The determination was made after 1/1/90, **and No further appeals may be made at SSA (see "Exhibit II" in BEM 260), 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. (BEM 271, pp. 8-9)

In the instant case, the claimant's AR argues that while the claimant may not have been found disabled he has a right to appeal that negative opinion of the SSA. The undersigned finds that the department erred in its denial of MA and retro MA based on the SSA denial without the right to appeal that decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES and ORDERS the department to reregister the claimant's March 26, 2010, MA and retroactive MA applications.



Michael J. Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/7/2010

Date Mailed: 12/7/2010

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 mailing 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.

MJB/jlg

cc:

