

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201051635

Issue No: 2009

[REDACTED]

[REDACTED]

Hearing Date: November 10, 2010
Saginaw 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 On November 10, 2010. Claimant was represented at the administrative hearing by [REDACTED]

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 March 22, 2010, claimant applied for MA-P with the Michigan DHS.
2. Claimant applied for three months of retro MA.
3. On April 30, 2010, the MRT denied.
4. On May 6, 2010, the DHS issued notice.
5. On July 21, 2010, claimant filed a hearing request.
6. On September 10, 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 December 21, 2010, SHRT once again denied claimant.
7. At the administrative hearing, claimant testified that he has been denied SSI by SSA on two different occasions. Claimant testified that he had an

SSI application pending. On May 10, 2011, the undersigned Administrative Law Judge received an SOLQ from SSA indicating claimant reapplied after the administrative hearing—on December 23, 2010. Claimant was denied pursuant to Status Code N32. 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 43-year-old male standing 5'10" tall and weighing 200 pounds. Claimant has a high school diploma.
9. Claimant does not have an alcohol/drug abuse problem or history. Claimant testified he smokes cigars. Claimant has a nicotine addiction. Per claimant Exhibit A, a physician's report indicates that claimant is: "daily drinker." Claimant Exhibit A.1.
10. Claimant does not have a driver's license due to "owing tickets."
11. Claimant is not currently working. Claimant last worked in prison in [REDACTED] to [REDACTED]. Claimant worked housekeeping from 7 AM to 3 PM, five days a week. Prior to the incarceration, claimant has a history of light and medium, unskilled employment.
12. Claimant alleges disability on the basis of neck and back pain, pinched nerves in the spine, blind left eye, partial blindness in right eye, upper gastrointestinal bleed.
13. The December 21, 2010 SHRT decision is adopted and incorporated by reference to the following extent:

Medical summary: Emergency report with diagnoses of diverticulitis from 10/09. Has not followed up on treatment, back in emergency with similar symptoms. Exhibit 12. Added eye exam with new medicals: Hand motion left eye and 20/30 right eye; 8/2010. Social Security physical exam of 2/2010 submitted. Objective medical evidence supports that claimant would reasonably retain the ability to perform light exertional tasks. Denied per 20 CFR 416.920(e).

A [REDACTED] physical evaluation indicates alert and oriented x 3; reflexes were normal and equal. A neurological and orthopedic supplemental report found claimant's current abilities with regards to fine manipulation including sitting, standing, bending, stooping, carrying, pushing, pulling, buttoning clothes, tying shoes, dressing, dialing telephone, opening door, making a fist, picking up coin, picking up a pencil, writing, squatting and arise from squatting, getting on

and off the examination table, climbing stairs, finger to finger, finger to nose, heel and shin—that claimant is capable of executing all activities without any comment except to bending where claimant complained of low back pain. Generally throughout the rest of the physical examination the evaluation was normal.

A [REDACTED] of [REDACTED] report regarding neck and back pain indicates that claimant is an active smoker, daily drinker. The impression for the evaluation indicates abdominal pain likely gastritis, alcoholic. Chronic neck pain and cervical radiculopathy.

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, the evidence of record indicates the claimant has had previous Social Security denials. Moreover, claimant had a reapplication which was also denied. 42 CFR Part 435 was specifically carved out for the facts herein. Claimant has received a final determination by SSA. None of the exceptions apply.

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. The medical evidence of record does not indicate that the gastritis is severe or interferes with claimant's ability to engage in work or work-like settings. Claimant's overall physical residual functional capacity is to perform light exertional work. Claimant can work pursuant to 20 CFR 416.920(e).

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: July 5, 2011

Date Mailed: July 5, 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

cc:

