

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: 2010-10947
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 12, 2010
Alpena County DHS

ADMINISTRATIVE LAW JUDGE: Janice 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, a telephone hearing was held on January 12, 2010.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) 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 9/30/09, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did not apply for retro MA.
- (3) On 10/9/09, the MRT denied.

- (4) On 10/14/09, the DHS issued notice.
- (5) On 10/27/09, claimant filed a hearing request.
- (6) On August 10, 2009, the Social Security Judge John A. Ransom issued an unfavorable decision on behalf of claimant for an SSA application filed April 17, 2006. Claimant indicated at the administrative hearing that she believed she was denied due to collecting unemployment during the alleged disability period. The Social Security decision and order made a full substantive review finding claimant not eligible on the basis of Medical Vocational Grid Rule 202.21. Claimant testified that she is alleging the same impairments. Claimant has received a final determination by SSA. None of the exceptions apply.
- (7) On 12/11/09, the State Hearing Review Team (SHRT) denied claimant.
- (8) As of the date of application, claimant was a 40-year-old female standing 5' tall and weighing 270 pounds. Claimant testified that that is a normal weight. Claimant's BMI Index is 52.7, classifying claimant as morbidly obese. Claimant has a 12th grade education.
- (9) Claimant testified she does not have an alcohol/drug abuse problem. Claimant did testify that she had an alcohol abuse history having ceased consuming alcohol in 2006. Claimant does not smoke.
- (10) Claimant does not have a driver's license. Claimant's response as to why she did not have a driver's license was ambiguous.
- (11) Claimant is not currently working. Claimant testified she drew unemployment from December 2006 until September 2009. Claimant has a history of unskilled work.
- (12) Claimant alleges disability on the basis of high blood pressure, depression, degenerative disc disease, leg problems.
- (13) The 12/11/09 SHRT 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).

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).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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, claimant seemed confused as to the denial of her Social Security application. Claimant indicated that she believed she was ineligible due to having collected unemployment. While one generally is not eligible if they are contending they are capable of working, claimant's unfavorable decision did not dismiss the case but rather made a full substantive review finding claimant not disabled at Step 5 under the Medical Vocational Grid rule analysis at 202.21. There is no indication that there is any relative dispute as to the facts with regards to the same impairments. 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.

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.

It is noted in the alternative that should the sequential analysis be applied, the undersigned Administrative Law Judge concurs with the 12/11/09 SHRT findings and conclusion denying claimant on the basis of Medical Vocational Grid Rule 202.20 as a guide.

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 Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 11, 2010

Date Mailed: February 17, 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 mailing date of the rehearing decision.

JS/cv

