

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: 2010-15589

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 10, 2010

Genesee 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 March 10, 2010.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) eligibility standards?

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 an intelligent, articulate, 50-year-old male with a high school education who works as an independent contractor in a privately owned electronics repair shop (Department Exhibit #1, pgs 69 and 70).

(2) Claimant and the shop owner split the commissions fifty/fifty, per claimant's hearing testimony.

(3) On February 3, 2009, claimant applied for disability-based MA.

(4) When the department denied claimant's application, he filed a hearing request.

(5) Claimant's hearing was held on March 10, 2010.

(6) At hearing, claimant stipulated he previously applied for Social Security disability benefits and his application has been denied at final appeal.

(7) During hearing, claimant also stipulated has worked as an electronics repairman at all times relevant to the filing of his disputed MA application.

(8) Claimant lives alone; additionally, he is fully capable of performing all self cares and basic daily living activities.

(9) Claimant has a diagnosis of Bipolar Disorder stabilized on [REDACTED] medications currently being prescribed, in conjunction with ongoing outpatient mental health counseling.

(10) On May 23, 2009, claimant underwent an independent psychological evaluation where he was noted to be fully oriented with good grooming/hygiene and normal affect (Department Exhibit #1, pgs 31-33).

(11) Continuation of outpatient counseling and [REDACTED] medications was recommended (Department Exhibit #1, pg 33).

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).

Jurisdiction must be established for a contested case review of departmental action before a decision on the merits of the case can be made. The applicable departmental 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.

The relevant federal regulations are found at 42 CFR Part 435. These regulations provide: "An SSA disability determination is binding on an agency until that determination is changed by the SSA." 42 CFR 435.541(a)(2)(b)(i). This regulation also provides: "If the SSA determination is changed, the new determination is also binding on the department." 42 CFR 435.541(a)(2)(b)(ii). These federal mandates are also reflected in the policy items cited above (BEM Item 260).

Claimant's credible testimony establishes he has received a final Social Security Administration (SSA) determination. Claimant now alleges impairments identical to those the SSA has already reviewed. Consequently, under the above-cited federal regulations and state policy, no jurisdiction exists for this Administrative Law Judge to proceed on the merits of this case. The status quo must remain intact. The department's action must remain upheld.

In closing, this Administrative Law Judge notes claimant would not have prevailed on the merits, even if a full analysis was required. Michigan administers the federal MA program. In assessing eligibility, Michigan defers to the federal guidelines. These federal guidelines state in part:

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

At application, claimant has the burden of proof pursuant to the following section:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Put simply, claimant would not qualify for disability-based MA on the merits of this case because he has no impairment, or combination of impairments, which would prevent him from being employed. In fact, claimant testified he is currently working and he has been working in his chosen occupation at all times relevant to his disputed application filed on February 3, 2009. Consequently, that application must remain denied based on lack of jurisdiction, or *in arguendo*, for lack of severity shown in concurrence with the department's State Hearing Review Team (SHRT) decision dated January 21, 2010(Department Exhibit #2).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled for MA eligibility purposes.

Accordingly, the department's action is AFFIRMED.

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

Date Signed: March 23, 2010

Date Mailed: March 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.

MBM/db

cc:

A large black rectangular redaction box covers the names of the recipients listed in the 'cc:' field.