

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: 2010-16767
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 11, 2010
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 March 11, 2010. Claimant personally appeared and was assisted by [REDACTED], [REDACTED]

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 a 39-year-old male who filed a Social Security disability application on January 4, 2007, alleging disability onset as of August 8, 2006, secondary to residuals from a

work-related lumbar spine injury which required corrective surgery on November 15, 2006 (Department Exhibit #2, pgs 6 and 11).

(2) Claimant alleged identical impairments when he filed his MA application at the local Department of Human Services (DHS) office on September 18, 2009.

(3) On May 20, 2009, the Social Security Administration (SSA) issued an Unfavorable Hearing Decision (Department Exhibit #2, pgs 3-15).

(4) The notice provision of this decision states in relevant part:

If you disagree with my decision, you may file an appeal with the Appeals Council.

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice (Department Exhibit #2, pg 3).

(5) A timely appeal was filed on claimant's unfavorable SSA decision

(6) On September 25, 2009 (one week after claimant filed the MA application disputed in this cause of action), the Social Security Administration's Appeals Council denied claimant's request for review stating:

We found no reason under our rules to review the Administrative Law Judge's decision. Therefore, we have denied your request for review.

This means that the Administrative Law Judge's decision is the final decision of the Commissioner of Social Security in your case (Department Exhibit #2, pg 2).

(7) In January 2010, claimant filed another MA application at his local DHS office which is not relevant to this cause of action.

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 department's policy at BEM Item 260.

The evidence of record in this case verifies claimant received a final SSA determination from the Appeals Council in September 2009. Claimant is alleging impairments identical to those the SSA has already reviewed to support his disputed MA application filed that same month, specifically, on September 18, 2009. Consequently, under the above-cited federal regulations and state policy no jurisdiction exists for this Administrative Law Judge to proceed on the merits of claimant's case. The status quo must remain intact. The department's action must remain upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the status quo must remain intact.

Accordingly, the department's denial of claimant's September 18, 2009 MA application 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.

2010-16767;mbm

MBM/db

cc:

