

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: 2010-17595

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 6, 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 April 6, 2010. Claimant personally appeared and testified. She was assisted by [REDACTED] [REDACTED]).

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA)/retro-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) On August 4, 2009, claimant applied for MA/retro-MA.

(2) On December 2, 2009, the department notified claimant in writing her MA/retro-MA application was being denied; consequently, a third party liability company ([REDACTED]) filed a hearing request on her behalf dated January 29, 2010.

(3) Claimant's hearing was held on April 6, 2010 and she was assisted by a patient advocate from [REDACTED]

(4) At hearing, claimant testified she also filed a Social Security Administration (SSA) disability application in June or July 2009.

(5) Claimant testified she did not appeal the SSA's denial of that application and the impairments she alleged on that application were identical to those currently being alleged in support of her MA/retro-MA application.

(6) A post-hearing computer inquiry by the department's State Hearing Review Team (SHRT) confirms no SSA appeal is pending on the disability disallowance they issued to client on October 14, 2009.

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 actions 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 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 have been incorporated in the department's policy at BEM Item 260.

The evidence of record in this case verifies claimant received a final SSA denial in 2009. Claimant did not appeal the denial of that application. Claimant is now alleging impairments identical to the ones 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 denial action must remain upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's denial action was correct.

Accordingly, the department's action is **AFFIRMED**.

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

Date Signed: May 25, 2010

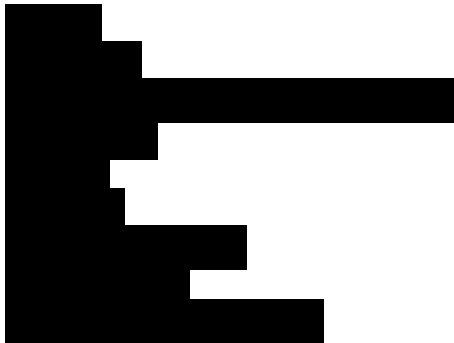
Date Mailed: May 26, 2010

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.