

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: 2010-31948
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 19, 2010
Ogemaw 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 conference hearing was held.

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 September 22, 2009, claimant applied for MA-P and SDA with the Michigan DHS. At the time of the application, claimant was collecting unemployment benefits.
- (2) He did apply for three months of retro MA.
- (3) On November 12, 2009, the MRT denied.

- (4) On December 1, 2009, the DHS issued notice.
- (5) On December 11, 2009, claimant filed a hearing request.
- (7) Claimant has been denied SSI by the Social Security Administration (SSA).

Claimant has had a final determination by SSA. None of the exceptions apply.

(6) On April 29, 2010, the State Hearing Review Team (SHRT) denied claimant for insufficient information. Claimant requested that the record be held open for the submission of new and additional medical documentation. Prior to the submission of this documentation, on May 24, 2010, the local office again informed the undersigned Administrative Law Judge that claimant had received a denial by SSA on his SSI application dated December 2, 2009. There was no evidence that claimant has any appellate rights remaining.

(8) As of the date of application, claimant was a 51-year-old standing 5'5" tall and weighing 176 pounds.

(9) Claimant does not have a current alcohol/drug abuse problem. Claimant testified that he did have alcohol/drug abuse history approximately two years ago. Claimant smokes approximately a pack and a half per day. Claimant has a nicotine addiction.

(10) Claimant has a driver's license and can drive an automobile.

(11) Claimant is not currently working. Last worked in February 2007 doing manual labor. Claimant's work history is semi-skilled work. Claimant was collecting unemployment benefits at the time of the application until approximately April 2010.

(12) Claimant alleges disability on the basis of Hepatitis C, back pain, depression, and anxiety.

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, there is apparently no dispute relative to the facts. 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.

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. It is also noted that claimant was collecting unemployment benefits at the time of the application until April 2010. Claimant represented to Unemployment Agency while not controlling. It is noted that claimant was representing to the Unemployment Agency that he was able and ready to work during this time period.

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 UPHeld.

Accordingly, the department's determination in this matter is AFFIRMED.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 15, 2010

Date Mailed: June 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/tg

cc:

