

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-37781  
Issue No.: 2009  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 2, 2010  
Wayne County DHS (82)

**ADMINISTRATIVE LAW JUDGE:** Linda Steadley Schwarb

**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 hearing was held on August 2, 2010. Claimant appeared and testified. Claimant was represented by [REDACTED].

**ISSUE**

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

**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 February 4, 2010, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to November of 2009.
2. On February 16, 2010, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
3. On May 11, 2010, a hearing request was filed to protest the department's determination.
4. On [REDACTED] claimant was struck by a motor vehicle and sustained a right tibial plateau fracture. Claimant underwent open reduction and internal fixation of the fracture.
5. Claimant's bone fracture has fully healed.

6. In approximately March of 2010, the Social Security Administration (SSA) determined that claimant was not disabled for purposes of the Supplemental Security Income (SSI) program. Claimant did not appeal the SSA determination. The SSA and the department based their determinations upon the same condition(s).

### **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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Relevant departmental policy in this matter is as follows:

#### **Final SSI Disability Determination**

SSA's determination that disability or blindness does **not** exist for SSI 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.

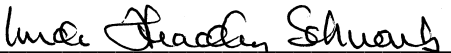
Eligibility for MA based on disability or blindness does **not** exist once SSA's determination is **final**. BEM Item 260, pp. 2 and 3.

In this case, claimant acknowledged at the hearing that, when evaluating claimant, the SSA and the department considered the same medical condition. Claimant testified that he had applied for SSI and that, in approximately March of 2010, the SSA denied

claimant's application based upon the belief that claimant was not "disabled." Claimant acknowledged that he did not file an appeal of the SSA determination. Claimant further acknowledged that the SSA and the department considered the same disabling condition. Since claimant failed to file an appeal of the SSA's determination within sixty days, the SSA determination that disability does not exist is final and binding upon the department. Departmental policy indicates as follows: "Eligibility for MA based upon disability or blindness does **not** exist once SSA's determination is final." Accordingly, the department properly determined that claimant is not disabled for purposes of the MA program. As a side note, at the hearing, claimant testified that he believes he is capable of work activities. Claimant reported that his fracture has healed. His primary complaint is that his right leg is stiff after he has remained in one position for a period of time and that he needs to stretch before he is able to comfortably move about again. Claimant testified that he believes he is capable of light work activities such as a cashier in a gas station. Based upon the SSA's final determination that claimant is not disabled for purposes of SSI, the department's determination in this matter must be affirmed.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is not "disabled" for purposes of the Medical Assistance program. Accordingly, the department's decision in this matter is hereby affirmed.

  
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Linda Steadley Schwarb  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 4, 2010

Date Mailed: August 6, 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.

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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 receipt date of the rehearing decision.

LSS/pf

cc:

