

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: 2010-45266  
Issue No: 2009, 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 31, 2010  
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 August 31, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine that the claimant was not disabled for Medicaid (MA) and State Disability Assistance (SDA) eligibility purpose?

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 applied for MA and SDA on May 20, 2010. (Department's Hearing Summary).
2. On July 15, 2010 department's Medical Review Team determined that the claimant was not disabled.

3. On July 16, 2010 department sent the claimant a notice denying his MA and SDA application.

4. On July 26, 2010 claimant requested a hearing with the assistance of a representative, [REDACTED].

5. On August 6, 2010 State Hearing Review Team (SHRT) also determined that the claimant was not disabled, and cited extensive history of alcohol abuse in this decision. SHRT also cited P.L. 104-121 due to materiality of drug and alcohol abuse.

6. SHRT also forwarded a Notice of Decision-Unfavorable, dated January 13, 2010 and rendered by the Social Security Administration (SSA) Administrative Law Judge. This decision addressed claimant's physical and mental issues which are the same as he claimed for MA and SDA eligibility purpose.

7. SHRT also forwarded the [REDACTED], on claimant's appeal of SSA's Administrative Law Judge's decision. This decision states that the [REDACTED] found no reason under SSA rules to review the Administrative Law Judge's decision, and claimant's request for review is therefore denied. The decision further states "This means that the Administrative Law Judge's decision is the final decision of the Commissioner of Social Security in your case".

#### 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (RFT).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (RFT).

Departmental policy states:

**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 (see EXHIBIT II in this item), 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.

Exhibit II cited above states:

When the Social Security Administration (SSA) determines that a client is not disabled/blind for SSI purposes, the client may appeal that determination at SSA.

The SSA Appeals Process consists of 3 steps:

1. Reconsideration (If initial application filed prior to October 1, 1999).
2. Hearing.
3. Appeals Council.

SSA has no time limits for making decisions on appeals. The client, however, has 60 days from the date he receives a denial notice to appeal each of the following SSA actions:

- Determinations.
- Reconsiderations.
- Hearings.

Reconsideration is filed at the Social Security Administration. A [REDACTED] employee, other than the one who decided the client was not disabled/blind, reviews the determination. Most reconsiderations uphold the original decision. A reconsideration is not completed for SSI applications filed after October 1, 1999.

Hearings are conducted by an administrative law judge (ALJ). The ALJ renders a new decision based on a review of the material, questions asked at the hearing, testimony of witnesses and new evidence submitted.

[REDACTED] can deny or dismiss an appeal from the hearings level, or grant the request by issuing a new decision or remanding the case back to an ALJ. Most appeals are denied or dismissed at this step. If the [REDACTED] upholds the ALJ's decision, there are no further appeals at SSA. The client may contest SSA's decision at the appropriate federal district court. BEM 260.

This Administrative Law Judge discussed claimant's SSI ineligibility and the fact that SSA [REDACTED] has denied his appeal in June, 2010. The decision of SSA's Administrative Law Judge that was upheld by the [REDACTED] cites the same medical problems that the claimant has alleged for MA and SDA eligibility purposes. Claimant responded in profane language and was repeatedly cussing and swearing. Despite claimant's behavior the Administrative Law Judge explained couple of times that she must abide by the final decision of SSA, which is [REDACTED] denial of claimant's SSI application, and that she could not find the claimant disabled for MA and SDA due to this decision.

Claimant's advocate stated that the claimant suffers from depression and is "self-medicating" with alcohol. Review of SSA decision clearly shows that claimant's mental condition was considered in this decision. This Administrative Law Judge finds that the claimant is therefore 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.

As the claimant does not meet the disability criteria for MA, he also does not meet such criteria for SDA. BEM 261.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant was not disabled for MA and SDA eligibility purpose.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ \_\_\_\_\_  
Ivona Rairigh  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: September 3, 2010

Date Mailed: September 3, 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 receipt date of the rehearing decision.

IR/tg

cc:

