

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

IN THE MATTER:



Reg No. 201049990
Issue No. 2009/4031
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 23, 2010
Lake 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 the claimant's request for a hearing. After due notice, a telephone hearing was held on September 23, 2010. Claimant, his mother and his aunt personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. Claimant is a 53-year-old male with a general equivalency diploma (GED) who applied for disability-based MA/SDA on June 24, 2010.
2. At that time, claimant had a Social Security Administration (SSA) disability appeal pending to address the denial of his SSA disability application.

3. When the department also denied claimant's MA/SDA application, he filed a hearing request just as he had done at the SSA level.
4. Claimant's MA/SDA hearing was held by conference telephone on September 23, 2010.
5. At hearing, the presiding Administrative Law Judge accepted the SSA's unfavorable decision about their disability denial issued on August 12, 2009 (Department Exhibit #1, pgs 71-84).
6. At claimant's MA/SDA hearing, he acknowledged the impairments he alleged at his SSA hearing are identical to those he is now alleging to support his MA/SDA application.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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 (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).

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

Before any substantive review of MA/SDA applications, jurisdiction must be established. 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.

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 requirements are also reflected in the department's manual item cited above.

In this case, evidence on the record verifies claimant received a final disability disallowance from the SSA on August 12, 2009. Claimant acknowledged he is now alleging the same impairments. Claimant's claim was fully considered by the SSA and benefits were denied. Consequently, under the above-cited federal regulations and state policy, there is no jurisdiction for this Administrative Law Judge to proceed in this matter. The SSA's determination was final, and thus, the department's denial action must be upheld. However, as noted above, if the SSA changes its determination, any new determination also will be binding on the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's denial of claimant's June 24, 2010 MA/SDA application was correct.

Accordingly, the department's denial is UPHeld.

/S/

Marlene B. Magyar
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: October 7, 2010

Date Mailed: October 7, 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

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