

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. 201051998
Issue No. 2009/4031
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 13, 2010
Grand Traverse 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 October 13, 2010. Claimant and his parents 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. On April 21, 2010, claimant applied for a disability-based monthly cash grant (SDA) and medical coverage (MA).
2. Claimant is a 47-year-old male who resided in [REDACTED] for several years until April 2010, when he relocated to [REDACTED] to reside with his parents.
3. When the department denied claimant's MA/SDA disability application he filed a hearing request, held by conference telephone on October 13, 2010.

4. Claimant stated on the record at hearing he filed a Social Security disability application in [REDACTED] in November 2009.
5. The federal Social Security Administration (SSA) found claimant not disabled under their rules, and thus, claimant was notified that application was denied.
6. Claimant alleged the same impairments as disabling when he filed his disputed MA/SDA application on April 21, 2010.
7. At claimant's MA/SDA hearing on October 3, 2010, he acknowledged on the record he did not appeal the Social Security Administration's (SSA's) disability denial.
8. While claimant's MA/SDA appeal was pending, the presiding Administrative Law Judge received verification of his failure to appeal the SSA's disability disallowance, per a computerized cross-check (SOLQ) dated October 13, 2010.

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).

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.

This policy is also applied in SDA cases, because the MA, SDA, SSI and RSDI disability definitions are identical, except for a shorter durational period for SDA (90 days).

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 determination. 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 the Administrative Law Judge to proceed on the merits of this case. The status quo must remain intact. The department's actions 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: December 9, 2010

Date Mailed: December 9, 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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