

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. 20109963
Issue No. 2009
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: February 11, 2010
Marquette 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 February 11, 2010. Claimant did not appear; however, he was represented by [REDACTED].

ISSUE

Did the department properly deny claimant's March 9, 2009 Medicaid (MA)/retro-MA 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. Claimant is a 46-year-old male who resides in [REDACTED]
2. On March 2, 2009 (while residing in Michigan), claimant applied for MA/retro-MA.
3. Claimant also applied for federal Social Security disability benefits based on identical impairments.

4. When the department denied claimant's MA/retro-MA application his authorized representative filed a hearing request, held in claimant's absence by three-way conference telephone on February 11, 2010.
5. While claimant's MA/retro-MA appeal was pending, specifically, on January 4, 2010, the federal Social Security Administration Judge who heard his case issued an Unfavorable Decision denying disability status to claimant after hearing.
6. On January 13, 2011, this Administrative Law Judge obtained verification of the SSA's hearing denial via a computer cross-check regarding the status of that case (SOLQ).

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).

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:

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 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 documentary evidence submitted in this case while claimant's appeal was pending verifies he received a final SSA disability denial dated January 4, 2010. Consequently, under the above-cited federal regulations and state policy, no jurisdiction exists for this Administrative Law Judge to proceed on the merits of this case. The status quo must remain intact. The department's denial action must remain upheld. However, even if further analysis was required, claimant's authorized representative would be unsuccessful in establishing a legally disabling condition. Claimant did not appear at the hearing so no competent testimony was offered to establish his employment status (SGA) at any time relevant to the disputed MA/retro-MA application. Consequently, this claim could be dismissed at the threshold level for failure to establish the most rudimentary of requirements at Step 1 of the required sequential evaluation process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's March 9, 2009 MA/retro-MA application.

