

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201145458
Issue No. 2009
Case No. [REDACTED]
Hearing Date: November 7, 2011
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 7, 2011 from Detroit, Michigan. The claimant appeared and testified; Mary Juras appeared and testified on behalf of Claimant. [REDACTED] appeared and testified on behalf of Claimant as Claimant's Authorized Hearing Representative (AHR). On behalf of Department of Human Services (DHS), [REDACTED], Specialist, Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Medical Assistance (MA) benefits for Claimant on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On 5/10/10, Claimant applied for MA benefits.
2. Claimant was subsequently approved for MA benefits.
3. Claimant's only basis for MA benefits was as a disabled individual.
4. On 8/16/10 (see Exhibits 18-19), the Medical Review Team (MRT) determined that Claimant was not a disabled individual.

5. On 2/14/11, the Social Security Administration determined Claimant was disabled from 1/2007-12/2008 and not disabled from 1/2009 through 2/16/11.
6. On 6/11/11, DHS terminated Claimant's MA benefits beginning 7/2011 and mailed a Notice of Case Action informing Claimant of the termination.
7. On 6/20/11, Claimant requested a hearing disputing the termination of MA benefits.
8. On 8/30/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 105-106), in part, by applying Vocational Rule 204.00 (H) as a guide.
9. As of the date of the administrative hearing, Claimant was a 43 year old male (DOB 1/16/68) with a height of 6'1 " and weight of 230 pounds.
10. Claimant has no relevant history of tobacco, alcohol or substance abuse.
11. Claimant's highest level of education is a Bachelor of Arts obtained from the University of Michigan.
12. Claimant received ongoing Medicaid coverage and has received the coverage the last 1-2 years.
13. Claimant claimed to be a disabled individual based on impairments of bipolar disorder and anxiety.

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). DHS (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 Reference Tables Manual (RFT).

The controlling DHS regulations are those that were in effect as of 5/2010, the month of the application which Claimant contends was wrongly denied. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential

health care services are made available to those who otherwise would not have financial resources to purchase them.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies (see BEM 260 at 1-2):

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. (see *Id.* at 2).

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Eligibility for MA based on disability or blindness does not exist once SSAs determination on SSI benefits is final. BEM 260 at 3. 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.

In the present case, Claimant's SSA application was adjudicated on 2/16/11 (see Exhibits 69-83). The decision was fully favorable concerning a closed benefit period from 1/1/07-12/31/08. On January 1, 2009, the SSA administrative law judge held that medical improvement occurred on 1/1/09 that was related to Claimant's ability to work and that Claimant has been able to perform substantial gainful activity from the date through the date of the SSA decision (2/16/11).

The present case concerns Claimant's eligibility for MA benefits effective 7/2011 and forward. The SSA decision dated 2/16/11 only directly addresses Claimant's SSA benefit eligibility through the date of the decision.

It is known that the DHS and SSA bases for disability are the same. For both applications, Claimant contended to be disabled based on a long history of bipolar disorder and related psychological impairments. It is also known that Claimant has continuously been employed though his gross monthly earnings fluctuated above and below the gross \$1,000/month limit which presumes that Claimant is performing SGA.

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Though Claimant established that his gross earning have consistently fallen below \$1,000/month since the date of the SSA hearing, there was no evidence that his medical condition worsened. The SSA decision denying benefits beginning 1/1/09 rested primarily on Claimant's medical improvement rather than an increase in gross earnings.

Because the SSA trier of fact determined that Claimant's medical condition improved between 1/1/09 through at least 2/16/11 and Claimant's condition has not notably changed since the SSA decision, the SSA decision is appropriately binding on DHS. Accordingly, it is found that Claimant is not a disabled individual due to medical improvement in his condition as determined by the SSA trier of fact.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated MA benefits to Claimant based on a determination that Claimant was not disabled. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 12/2/11

Date Mailed: 12/2/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.

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- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

