

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2012-56695
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: August 20, 2012
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 conducted from Detroit, Michigan on August 20, 2012. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services (Department).

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") and State Disability Assistance ("SDA") benefit programs.

FINDINGS OF FACT

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

1. Claimant was receiving MA and SDA.
2. In May of 2011, Claimant's benefits were due for review.

3. On May 9, 2012, the Medical Review Team (“MRT”) determined that Claimant was not disabled based on a Social Security Administration Appeals Council decision of October 7, 2011, which decision Claimant did not appeal within 60 days.
4. The Department notified Claimant regarding the SDA decision on May 16, 2012.
5. On May 22, 2012, the Department notified Claimant that his MA case was closed, effective July 1, 2012, due to the SSA Appeals Council decision.
6. On May 30, 2012, Claimant filed hearing requests regarding the SDA and MA closure.
7. On July 12, 2012, the State Hearing Review Team SHRT found Claimant not disabled based on the Social Security Administration Appeals Council decision of October 7, 2011.
8. The Claimant alleged at the hearing that he had changes in his medical history since the original Administrative Law Judge’s decision upon which the Appeals Council decision was based.

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, 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 Bridges Reference Tables (RFT).

Once an individual has been found disabled for purposes of MA benefits, continued entitlement is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994

In the present case, Claimant’s MA and SDA cases were due for review in May of 2011. On October 7, 2011, a Social Security Administration Appeals Council decision affirmed a November 2, 2010 SSA Administrative Law Judge’s decision that Claimant was not disabled. (Exhibit 1) Based on the Appeals Council’s decision, the Department determined that Claimant was no longer entitled to MA or SDA. At the

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hearing, Claimant testified that he had changes in medical history since the November 2, 2010 SSA decision finding him not disabled.

BEM 260 instructs:

If the client is **not** eligible for RSDI based on disability or blindness:

- The Medical Review Team (MRT) certifies disability and blindness.

Exception: The Social Security Administration's (SSA's) final determination that the client is **not** disabled/blind for SSI, **not** RSDI, takes **precedence** over an MRT determination

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.

BEM 271 instructs:

Once SSA's decision is **final**, the local office **must take the following actions:**

1. For clients receiving **MA**, SSA's determination that disability or blindness **does not exist** for SSI is **final and the MA case must be closed** if:

- The determination was made after 1/1/90, **and**
- No further appeals may be made at SSA; see Exhibit II in BEM 260, **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,

•• An additional impairment(s), change, or deterioration in his/her condition that SSA has reviewed and made a determination on yet.

Note: If the client alleges either condition listed above, obtain a new medical report and resubmit to the MRT for a new determination in accordance with BEM 260.

2. For the **SDA** program, SSA's final determination is **not binding** on state programs (for example, SDA). The MRT's determination that the client meets the disability factor continues for SDA until the next scheduled medical review.

In the present case, Claimant alleged at the hearing that he had a "totally different disabling condition than the condition SSA based its determination on, and/or an additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on." BEM 260, BEM 271. Therefore, the Department was incorrect in closing Claimant's MA case based on the SSA decision.

In addition, BEM 271 states that, "for the **SDA** program, SSA's final determination is **not binding** on state programs (for example, SDA)." (BEM 271, p. 3) Therefore the Department's decision to close Claimant's SDA case based on the SSA decision was also not correct.

It should be noted that this written decision amends the decision made on the record at the hearing and is controlling.

DECISION AND ORDER

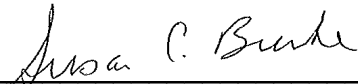
The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department was not correct in its decision with regard to Claimant's MA and SDA benefits.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall initiate reinstatement of Claimant's SDA and MA cases, effective June 1, 2012 and July 1, 2012, respectively, if Claimant is found to be eligible pursuant to a Medical Review Team review of Claimant's disability. Said medical review shall not rely solely on the SSA Appeals Council Decision of October 7, 2011.

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3. The Department shall issue a new written notice to Claimant of the Medical Review Team's medical decision with regard to disability.
4. The Department shall supplement for any lost benefits that Claimant was entitled to receive if otherwise eligible, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 30, 2012

Date Mailed: August 30, 2012

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.
- 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

