

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

IN THE MATTER OF:



Reg. No.: 201266549
Issue No.: 2009
Case No.:
Hearing Date: November 27, 2012
County: Genesee County DHS (02)

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on November 27, 2012. Claimant failed to appear for the administrative hearing. Claimant was represented by

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P)?

FINDINGS OF FACT

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

1. On September 30, 2011 claimant applied for MA-P with the Michigan DHS.
2. Claimant applied for two months of retro MA.
3. On February 17, 2012 the MRT denied.
4. On April 27, 2012 the DHS issued notice.
5. On July 13, 2012 claimant filed a hearing request.
6. On September 7, 2012 the State Hearing Review Team (SHRT) denied claimant. Pursuant to claimant's request to hold the record open for the

submission of new and additional medical documentation, on February 5, 2013 SHRT once again denied claimant.

7. The undersigned Administrative Law Judge (ALJ) received verification from the Social Security Administration (SSA) on February 22, 2013 indicating that the claimant's application for SSI with SSA was denied on January 24, 2013 at the appeals level on the basis "AD"-dismiss/abandoned. Claimant has been denied SSI by the Social Security Administration (SSA). Claimant has had a final determination by SSA. None of the exceptions apply.
8. Claimant failed to appear as her representative indicated that claimant was "out of town visiting relatives." Claimant was not in appearance at the administrative hearing and was not available for testimony and/or cross examination. There is no information on the record as to whether or not claimant is engaged in work.
9. Claimant's representative request for an adjournment was denied on the grounds that good cause was not shown.
10. SHRT denied claimant at both the initial and subsequent review on the basis that claimant's impairments are non-severe.
11. The September 7, 2012 and February 5, 2012 SHRT decision is adopted and incorporated by reference herein in the alternative.

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).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Prior to any substantive review, jurisdiction is paramount. 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.

Relevant federal regulations are found at 42 CFR Part 435. These regulations provide: "An SSA disability determination is binding on an agency until the determination is changed by the SSA." 42 CFR 435.541(a)(b)(i). These regulations further provide: "If the SSA determination is changed, the new determination is also binding on the agency." 42 CFR 435.541(a)(b)(ii).

In this case, verification from SSA indicates claimant's dismissed/abandoned her SSI appeal. Claimant's claim was considered by SSA and benefits denied. The determination was final. Claimant is alleging the same impairments. None of the exceptions apply.

In the alternative, it is noted that the SHRT decision is adopted and incorporated by reference in the alternative. Claimant's impairments are non-severe.

It is further noted that claimant failed to appear for the administrative hearing. There is no evidence on the record to indicate whether is working.

For these reasons, under the above-cited policy and federal law, this Administrative Law Judge has no jurisdiction to proceed with a substantive review. The department's denial must be upheld.

As noted above, should the SSA change its determination, then the new determination would also be binding on the DHS.

In the alternative, should the sequential analysis be applied, the undersigned Administrative Law Judge would concur with the findings and conclusions of the SHRT decisions in finding claimant not disabled under federal law and state policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is **UPHELD**.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 18, 2013

Date Mailed: March 19, 2013

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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing 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

201266549/JGS

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

JGS/tb

cc:

