

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

IN THE MATTER OF:



Reg. No: 2012-52861
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: December 5, 2012
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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, a telephone hearing was held on December 5, 2012. Participants on behalf of the claimant included the claimant and his sister, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED]. It is noted that the hearing request was found to be timely by this Administrative Law Judge and, therefore, the hearing proceeded to the underlying issues. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team ("SHRT") for consideration. On May 9, 2013, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) and State Disability Assistance (SDA) 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. On October 3, 2011, claimant applied for MA and SDA with the Michigan Department of Human Services (DHS).
2. Claimant applied for retro MA.
3. On January 26, 2012, the MRT denied.
4. On January 30, 2012, the DHS issued notice.
5. On April 3, 2012 and May 9, 2012, claimant filed a hearing request.

6. On June 27, 2012, the State Hearing Review Team (SHRT) denied claimant. Pursuant to the claimant's request to hold the record open for the submission of new and additional medical documentation, on May 9, 2013 SHRT once again denied claimant.
7. As of the date of hearing, claimant was a 29-year-old male standing 6'2" tall and weighing 260 pounds. Claimant has a GED.
8. Claimant testified that he hasn't smoked cigarettes in one year, drinks alcohol about once a week and has n't used illegal drugs in about 5-6 years.
9. Claimant has a driver's license and can drive an automobile.
10. Claimant is not currently working. Claimant's work history has been mostly sporadic and would not be considered substantial gainful employment (SGA).
11. Claimant alleges disability on the basis of bipolar disorder, ADHD and a learning disability.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (RFT).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

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. BEM, 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 the Social Security Administration indicates a final determination pursuant to a June 22, 2011 application. Claimant's claim was considered by SSA and benefits denied. This determination was final. Claimant is alleging the same impairment. None of the exceptions apply.

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**.

Suzanne
Administrative

/s/ _____
L. Morris
Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 19, 2013

Date Mailed: July 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.

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

2012-52861/SLM

SLM/las

cc:

