

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-11152
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: April 22, 2013
County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) cases as of December 1, 2012, based on a 2008 Social Security Administration (SSA) decision finding Claimant not disabled?

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 May 19, 2006, Claimant filed an application for Supplemental Security Income (SSI) benefits with SSA.
2. On November 19, 2007, Claimant filed an application for MA and SDA with the Department.
3. On April 17, 2008, the State Hearings Review Team (SHRT) found Claimant disabled and the Department provided Claimant with MA coverage with a medical review date of May 2012.

4. In November 2008, the SSA denied Claimant's application for SSI finding no disability.
5. On September 21, 2012, the Department forwarded Claimant's timely submitted medical packet to the Medical Review Team (MRT).
6. On October 23, 2012, MRT returned the packet to the Department without a decision but with a deferral for the Department to take action based on SSA's final denial of Claimant's May 2006 SSI application.
7. On October 24, 2012, the Department sent Claimant a Notice of Case Action notifying her that her MA and SDA cases would close effective December 1, 2012, because she had not timely appealed the SSA's December 2008 decision.
8. In a request for hearing dated October 31, 2012, upon which the Department failed to time-stamp its receipt date, Claimant requested a hearing to dispute the Department's actions concerning her SDA and MA cases.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

Additionally, the Department testified that Claimant's SDA and MA cases were closed effective December 1, 2012, because Claimant had failed to timely appeal the SSA's final denial in December 2008. Once SSA's determination that disability or blindness does not exist for SSI is final, the Department must close the client's MA case if the following conditions are established: (i) the determination was made after 1/1/90, **and** (ii) either 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** (iii) the client is **not** claiming either a totally different disabling condition than the condition SSA based its determination on, or an additional impairment(s), change, or deterioration in his/her condition that SSA has reviewed and made a determination on yet. BEM 271 (June 2012), pp. 8-9.

The evidence in this case established that, although Claimant's May 2006 SSI application had been denied in November 2008, Claimant had filed subsequent applications with SSA. On February 16, 2012, the Department received a Verification of Application or Appeal for SSI/RSDI form (DHS-1552) signed by SSA showing that Claimant had a January 26, 2012, MA application pending with SSA as of February 14, 2013. At the hearing, Claimant testified that she had been denied SSI based on that application but she had a hearing to address the denial scheduled on May 5, 2013. The Department had not run any Single Online Query (SOLQ) showing Claimant's status with SSA as of October 2012 when it sent Claimant the Notice of Case Action concerning the closure of her MA case nor had it established that Claimant was not alleging either a totally different disabling condition than the condition SSA based its determination on or an additional impairment, change or deterioration of the condition that SSA had reviewed. Thus, the Department did not act in accordance with Department policy when it closed Claimant's MA case effective December 1, 2012.

For the SDA program, SSA's final determination is not binding. BEM 271, p. 9. The MRT's determination that the client meets the disability factor continues for SDA until the next scheduled medical review. BEM 271, p. 9. In this case, Claimant timely submitted her medical packet in connection with the September 2012 medical review. However, MRT did not review the medical packet because it concluded that Claimant's SDA case should have closed following SSA's December 2008 denial. However, because Claimant had an application pending with SSA at the time the medical packet was forwarded to MRT, the Department did not act in accordance with Department policy when it closed Claimant's SDA case without assessing Claimant's medical evidence and determining whether she established a disability for SDA purposes. BEM 261 (January 2012), p. 3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it closed Claimant's MA and SDA cases. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's MA and SDA cases as of December 1, 2012;
2. Begin reprocessing Claimant's MA and SDA eligibility in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with MA coverage she is eligible to receive from December 1, 2012, ongoing;
4. Issue supplements to Claimant for SDA benefits she was eligible to receive but did not from December 1, 2012, ongoing; and

5. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 1, 2013

Date Mailed: May 2, 2013

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

ACE/pf

cc:

