

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

IN THE MATTER OF:



Reg. No.: 201314172
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: March 7, 2013
County: Bay County DHS

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, a telephone hearing was held March 7, 2013.

ISSUE

Did the Department of Human Services (DHS) properly deny Claimant's Medical Assistant (MA-P) 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. The case herein is *ex parte* review pursuant to Claimant's proposed closure for MA-P. The DHS classifies the application date herein as 9/10/12 for MA-P with the Michigan DHS.
2. There is no retro MA-P issue, due to a timely hearing request and the reinstatement of the proposed negative action.
3. On 11/19/12, the MRT denied.
4. On 11/21/12, the DHS issued notice.
5. On 11/30/12, Claimant filed a hearing request and the DHS reinstated the action pending the outcome of the hearing.
6. On 2/5/13 the State Hearing Review Team (SHRT) denied Claimant.
7. At the administrative hearing, Claimant indicated that he had been denied SSI by the Social Security Administration (SSA) pursuant to an

unfavorable decision on 7/12/11. Claimant indicated that he had filed an appeal which was pending. The DHS and Claimant referred to letter from SSA 11/23/12 which was offered into evidence as support of the appeal. The undersigned ALJ admitted the letter instructed the DHS to mark the Exhibit as Claimant Exhibit 1.2. The DHS faxed to the ALJ a different document – the date of the document from SSA on the purported Claimant Exhibit 1.2 is dated 12/7/12 indicating that Claimant had filed for SSI with SSA. This document would support that Claimant's previously application was denied and there is no appeal pending.

8. The 2/5/13 SHRT decision is adopted and incorporated by reference herein 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).

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, Claimant indicated that he received an unfavorable decision on an SSI claim on 7/12/11. Claimant indicated that he filed for an appeal. The SOLQ reviewed by the DHS at the administrative hearing did not show anything pending with the SSA. In support of Claimant's argument that he has a case pending, Claimant supported a document marked as Claimant Exhibit 1.2. Claimant indicated that the date of the letter was 11/23/12; the document faxed by DHS is a letter date 12/7/12. This letter would indicate that Claimant previously received an unfavorable decision which is not pending and thus, Claimant has received a final determination by SSA. 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

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.

Claimant may reapply.

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.

The DHS may close the Claimant's MA-P case.

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

Date Signed: 4/5/13

Date Mailed: 4/8/13

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

JGS/tb

cc:

