

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19475
Issue No.: 2009, 4009
Case No.: [REDACTED]
Hearing Date: April 2, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 2, 2014, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's fiancé, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Medical Assistance (MA) and State Disability Assistance (SDA) for the reason that Claimant is not a disabled individual.

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 an unspecified date, Claimant applied for Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA).
2. On [REDACTED], following an administrative hearing, SSA issued an administrative decision that Claimant was not disabled.
3. On an unspecified date, Claimant appealed the SSA denial of disability.

4. Claimant was an ongoing MA and SDA benefit recipient.
5. Claimant's only basis for MA and SDA benefits was as a disabled individual.
6. On [REDACTED] the SSA Appeals Council affirmed the administrative decision that Claimant is not disabled.
7. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual for purposes of MA eligibility (see Exhibits 3-4).
8. On [REDACTED], DHS initiated termination of Claimant's eligibility for MA and SDA benefits, effective 10/2013, and mailed a Notice of Case Action (Exhibits 16-17) informing Claimant of the termination.
9. On [REDACTED], Claimant requested a hearing disputing the termination of MA and SDA benefits.
10. On [REDACTED], the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual, in part, by reliance on a Disability Determination Explanation (Exhibits 30-41).

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). DHS (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies:

- by death (for the month of death);

- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).
BEM 260 (7/2012) pp. 1-2

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 (7/2012), p. 8.

It was not disputed that a SSA administrative decision (Exhibits 21-29) determined that Claimant was not disabled. It was not disputed that Claimant appealed the unfavorable decision (see Exhibits 48-50). During the hearing, it was thought that Claimant's appeal was still pending with SSA. It was also thought that a DHS failure to present evidence of medical improvement justified a finding that DHS improperly terminated Claimant's eligibility. A closer evaluation of presented documents requires a different analysis.

DHS presented evidence that Claimant appealed an unfavorable hearing decision to the Appeals Council. On [REDACTED], the SSA Appeals Council denied Claimant's appeal (see Exhibits 42-47).

Eligibility for MA based on disability or blindness does not exist once SSA's determination is final. *Id.*, p. 3. 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; 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.

Id., pp. 3-4.

The denial of disability by the SSA Appeals Council is a “final” decision. Consideration was given to whether Claimant has a totally different or deterioration of impairments compared to what was considered by SSA.

A Medical Examination Report (Exhibits 18-20) dated [REDACTED] from Claimant’s treating physician was presented. The physician noted an approximate one year history of treating Claimant. The physician provided diagnoses of left leg and left shoulder problems. Hypertension and other illegible diagnoses were also noted. An impression was given that Claimant’s condition was deteriorating. It was noted that Claimant cannot meet household needs.

SSA denied Claimant’s appeal on [REDACTED] DHS terminated Claimant’s MA eligibility on [REDACTED]. The relatively short time between SSA application denial and MA termination is suggestive of no significant change in Claimant’s condition.

An SSA decision noted left leg pain related to a fall which was noted on the presented Medical Examination Report. This is suggestive of a condition which had no significant change.

The presented Medical Examination Report also noted left shoulder pain. Claimant’s physician noted that Claimant had no restrictions to performing repetitive actions with his arms or legs. This is suggestive of no significant worsening to Claimant’s condition.

Claimant’s physician did note that Claimant’s condition was deteriorating and that Claimant required assistance with household needs. Though these statements are suggestive of changes, the evidence was unsupported with any medical evidence such as radiology or treatment records.

Based on the presented evidence, it is found that there is no change in conditions or impairments that would justify ignoring a “final” denial of Claimant’s SSI application. Accordingly, the denial of disability by SSA is binding on DHS. It is found that DHS properly terminated Claimant’s eligibility for MA benefits based on a finding that Claimant is not disabled.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person’s basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (1/2012), p. 1.

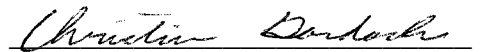
A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
 - resides in a qualified Special Living Arrangement facility, or
 - is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
 - is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
- Id.*

It has already been found that Claimant is not disabled for purposes of MA benefits based on a binding SSA determination that Claimant is not disabled. The analysis and finding applies equally to the termination of SDA benefits. It is found that Claimant is not a disabled individual for purposes of SDA eligibility and that DHS properly terminated Claimant's eligibility for SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA and SDA eligibility, effective 10/2013, based on a determination that Claimant is not disabled. The actions taken by DHS are **AFFIRMED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/21/2014

Date Mailed: 4/21/2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc:

A large black rectangular redaction box covers the names of the recipients in the cc field.

MAHS