

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

IN THE MATTER OF:



Reg. No.: 2014-33370
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: May 8, 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 May 8, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

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.
2. Claimant was an ongoing MA and SDA benefit recipient.
3. Claimant's only basis for MA and SDA benefits was as a disabled individual.

4. On [REDACTED], SSA made a final determination that Claimant was not disabled.
5. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual for purposes of MA eligibility (see Exhibits 2-3).
6. On [REDACTED], DHS terminated Claimant's eligibility for MA and SDA benefits, effective [REDACTED], and mailed a Notice of Case Action informing Claimant of the termination.
7. On [REDACTED], Claimant requested a hearing disputing the termination of MA and SDA benefits.
8. On [REDACTED], the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibit 254), in part, by reliance on a Disability Determination Explanation (Exhibits 213-228).
9. As of the date of the administrative hearing, Claimant was a 42-year-old female with a height of 5'4" and weight of 133 pounds.

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. Prior to a medical analysis, recent SSA activity concerning Claimant's claim of disability must be factored.

The Social Security Administration's final determination that the client is not disabled/blind for SSI, not RSDI, takes precedence over an MRT determination. BEM 260 (7/2013), p. 3. This rule is reiterated elsewhere in DHS policy.

For MA, SSA's final determination that a client is not disabled/blind for SSI purposes supersedes MRT's/SHRT's certification. BEM 815 (7/2013), pp. 1-2. See BEM 260 to determine when to proceed with a medical determination for these clients. *Id.*

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.

BEM 260 (7/2013), p 3.

DHS presented a SSA administrative decision (Exhibits 238-253) dated [REDACTED]. The SSA decision determined that Claimant was not disabled based on Claimant's ability to perform sufficiently available jobs in the southeastern Michigan economy. Claimant presented testimony that she appealed the unfavorable SSA decision to the Appeals Council, the final step within the SSA appeals process. The Appeals Council denied Claimant's appeal on [REDACTED] (see Exhibit 214). For good measure, Claimant was again denied in the preliminary stages of her subsequent SSA application (see Exhibits 213-228) dated [REDACTED] (see Exhibits 24-26).

Claimant conceded that the basis of her Medicaid claim of disability was identical to her SSA claim of disability. There is no evidence of a worsening condition, different condition or change in circumstances that would alter the unfavorable final decision made by SSA.

Based on the presented evidence, it is found that an unfavorable “final” SSA denial of SSI benefits is binding on DHS. Accordingly, it is found that DHS properly terminated Claimant’s MA eligibility, effective 4/2014.

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 at 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 at 1.

A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- 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).

It has already been found that Claimant is not disabled for purposes of MA benefits based on a SSA determination that Claimant has sufficiently available job opportunities within southeastern Michigan. It is plausible that a claimant is ineligible for MA benefits, but eligible for SDA benefits. Such a scenario would occur if a client was disabled for longer than 90 days (the durational requirement for SDA eligibility) but less than 12 months (the durational requirement for MA eligibility).

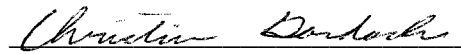
Numerous medical records were presented. It was verified that Claimant has extremely concerning conditions such as Stage IV kidney disease and congestive heart failure. Other problems such as Raynaud’s disease and knee pain were also verified. Despite Claimant’s problems and extensive medical records, there is no persuasive basis to justify a deviation from the unfavorable SSA decision for purposes of SDA eligibility. Accordingly, it is found that DHS improperly terminated Claimant’s eligibility for SDA benefits.

It should be noted that a finding of disability began with a State of Michigan administrative decision (Exhibits 202-212) dated [REDACTED]. The decision wisely determined that Claimant’s serious diagnoses and deteriorating condition justified approval of MA benefits. Had Claimant not been approved for MA benefits, she might have died. Fortunately, affirming DHS’ termination of MA benefits in the present case should not result in such an inhumane outcome.

As discussed during the hearing, as of [REDACTED], disability is no longer required for Medicaid eligibility. Thus, Claimant should be eligible to continue receiving Medicaid if she reapplies for the program.

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 [REDACTED], 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: 5/27/2014

Date Mailed: 5/27/2014

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

2014-33370/CG

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:

