

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-10186
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 9, 2014
County: Wayne (35)

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, an in-person hearing was held on April 9, 2014, from Redford, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's legal counsel/authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) 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 [REDACTED] Claimant applied for MA benefits, including retroactive MA benefits from [REDACTED]
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED], Claimant applied for Supplemental Security Income (SSI) benefits.

4. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 15-16).
5. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
6. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.
7. On an unspecified date, possibly in [REDACTED], SSA denied Claimant's application for SSI benefits based on a finding that Claimant was not disabled.
8. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant does not have a severe impairment.
9. On [REDACTED], an administrative hearing was held.
10. Claimant presented new medical documents (Exhibits A1-A50) at the hearing.
11. On [REDACTED], an Interim Order Extending the Record was mailed to Claimant to allow 10 days from the date of hearing to submit any documents tending to verify that Claimant's denial of SSI benefits was not binding on DHS.
12. During the hearing, Claimant waived the right to receive a timely hearing decision.
13. During the hearing, Claimant and DHS waived any objections to allow the admission of any additional medical documents considered and forwarded by SHRT.
14. On [REDACTED], an updated hearing packet was forwarded to SHRT and an Interim Order Extending the Record for Review by State Hearing Review Team was subsequently issued which extended the record 90 days from the date of hearing.
15. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 201.24.
16. On [REDACTED], the Michigan Administrative Hearings System received the updated hearing packet and SHRT decision.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to

1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

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.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4). Prior to a disability 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. Similar guidance is found elsewhere within DHS policies.

For MA, SSA's final determination that a client is not disabled/blind for SSI purposes supersedes MRT's/SHRT's certification. BAM 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 State Online Query (SOLQ) (Exhibits 35-37) concerning a SSA application made by Claimant. It was noted that Claimant applied for SSI benefits on [REDACTED]. The date is notable because it happened to be the same date that DHS denied Claimant's claim of disability. The fact that Claimant's claim of disability followed the DHS determination of disability is compelling evidence that SSA considered all evidence that DHS considered in determining Claimant's allegation of disability. It is found that Claimant's DHS claim did not include a different or worsening condition than considered by SSA.

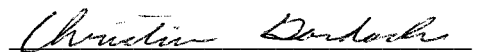
It was not disputed that SSA denied Claimant's application based on a determination that Claimant was not disabled. It was also not disputed that Claimant failed to appeal the SSA denial of disability, thereby rendering the claim to be "final".

Based on the presented evidence, it is found that an unfavorable "final" SSA denial of SSI benefits is binding. Accordingly, it is found that DHS properly terminated Claimant's MA benefit application.

It should be noted that presented medical documents tended to establish that Claimant is in dire need of diabetic medication and medical treatment. As discussed during the hearing, as of [REDACTED], Claimant need not establish disability to qualify for medical benefits which should offer him the necessary medication and treatment. Thus, Claimant is strongly encouraged to reapply for MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefit application dated [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: 6/24/2014

Date Mailed: 6/24/2014

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:

