

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25514
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: July 3, 2014
County: Macomb (20)

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 July 3, 2014, from Warren, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative. 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 Supplemental Security Income (SSI) benefits.
2. On [REDACTED] Claimant applied for MA benefits, including retroactive MA benefits from [REDACTED]
3. Claimant's application was submitted to DHS by an authorized representative.
4. Claimant's only basis for MA benefits was as a disabled individual.

5. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-5).
6. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
7. On [REDACTED], DHS emailed notice of denial to Claimant's authorized representative (see Exhibit A1).
8. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.
9. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, based on a Disability Determination Explanation which determined that Claimant could perform past relevant employment.
10. On an unspecified date, SSA approved Claimant for SSI benefits, in part, based on a disability onset date of [REDACTED].
11. On [REDACTED], an administrative hearing was held.
12. On [REDACTED], an Updated Interim Order Extending the Record was mailed to Claimant to allow 7 days from the date of hearing to allow Claimant to submit a Social Security Administration (SSA) hearing decision and/or verification of an appeal of the SSA hearing decision; DHS was given an additional 4 days to submit written arguments concerning Claimant's submission.
13. Claimant failed to submit any evidence that Claimant appealed the SSA decision or that the SSA decision was not binding.

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).

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

DHS presented an SOLQ (State Online Query) (Exhibits 1-3). The SOLQ is a document obtained from a data exchange between DHS and SSA. The SOLQ listed that Claimant's "date of eligibility" was [REDACTED] based on a disability onset date of [REDACTED]. Claimant's SSI eligibility established that Claimant was disabled as of [REDACTED]. It must still be determined whether Claimant was disabled for the month of 7 [REDACTED].

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 SOLQ verified that Claimant applied for SSI benefits on [REDACTED]. The SSA decision approving Claimant for SSI benefits beginning [REDACTED] was only a partial SSI approval. The partial SSI approval was also a denial of Claimant's SSI eligibility from [REDACTED] through [REDACTED]. An [REDACTED] onset disability date verified that Claimant's SSI denial from [REDACTED] 3 was based on a finding that Claimant was not disabled for that period. That finding is binding on Claimant and DHS as Claimant did not appeal the decision, thereby rendering the decision to be final.

Claimant's AHR contended that other DHS policy is supportive in finding that Claimant is a disabled individual in the three months before the SSI disability onset date. Claimant's AHR cited DHS application processing policy in support of the contention.

Retro MA coverage is available back to the first day of the third calendar month prior to:

- The current application for FIP and MA applicants and persons applying to be added to the group.
- The most recent application (not redetermination) for FIP and MA recipients.
- For SSI, entitlement to SSI.
- For department wards;
- For title IV-E and special needs adoption assistance recipients.

BAM 115 (5/2012), p. 9-10.

To accept Claimant's AHR's contention, "is available" would have to be interpreted as "is automatic". Such an interpretation is unpersuasive for multiple reasons.

First, such an interpretation would contradict DHS policy citing that a final SSI decision is binding. A general rule of policy interpretation is that policy should not be interpreted so as to cause a conflict in policy.

Secondly, the most literal interpretation of "is available" is that clients have the opportunity to apply for retroactive MA benefits. Claimant applied and happened to be ineligible for retroactive MA benefits because of a binding SSA determination. Based on the presented evidence, it is found that DHS properly denied Claimant's SSI eligibility for the month of [REDACTED].

DECISION AND ORDER

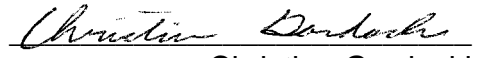
The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit application dated [REDACTED]
- (2) evaluate Claimant's eligibility for MA benefits subject to the finding that Claimant is a disabled individual beginning [REDACTED]; and
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial.

The actions taken by DHS are **PARTIALLY REVERSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA application for retroactive MA benefits from [REDACTED]

The actions taken by DHS are **PARTIALLY AFFIRMED**.


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

Date Signed: 7/17/2014

Date Mailed: 7/17/2014

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:

