

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-31481
Issue No.: 4009; 2000; 3000; 5000
Case No.: [REDACTED]
Hearing Date: June 2, 2014
County: Monroe

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 June 2, 2014, from Monroe, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUES

The issue is whether DHS properly terminated Claimant's State Disability Assistance (SDA) eligibility 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. Claimant was an ongoing SDA benefit recipient.
3. Claimant's only basis for SDA benefits was as a disabled individual.
4. On [REDACTED], SSA issued an unfavorable administrative hearing decision that Claimant was not disabled.

5. Claimant did not appeal the denial of SSI benefits.
6. On [REDACTED] the Medical Review Team (MRT) determined that Claimant was not a disabled individual for purposes of SDA eligibility (see Exhibits 9-10).
7. On [REDACTED], DHS terminated Claimant's eligibility for SDA benefits, effective [REDACTED], and mailed a Notice of Case Action (Exhibits 3-8) informing Claimant of the termination.
8. On [REDACTED], Claimant requested a hearing disputing a termination of SDA, Medical Assistance (MA), and Food Assistance Program (FAP) benefits; a denial of State Emergency Relief (SER) was also disputed.
9. 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 4-1 – 4-14) and determining that Claimant can perform past relevant employment.
10. On [REDACTED], an administrative hearing was held.
11. During the hearing, Claimant waived the right to receive a timely hearing decision.
12. During the hearing, Claimant and DHS waived any objections to allow the admission of additional documents considered and forwarded by SHRT.
13. During the hearing, Claimant presented additional medical documents (Exhibits A1-A3).
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 202.14.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. 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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049. Department policies are contained in the Department of Human Services Emergency Relief Manual (ERM).

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).

Claimant's hearing request checked that he had SER, FAP, and MA disputes. Claimant testified that his SER dispute is resolved. Claimant testified that he mistakenly requested a FAP benefit hearing. Claimant testified that he does not need a hearing concerning MA benefits. Claimant's hearing request will be dismissed concerning these issues. The analysis will continue for Claimant's SDA eligibility.

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.*

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for SDA eligibility without undergoing a medical review process (See BAM 815) which determines whether Claimant is a disabled individual. *Id.*, p. 3. 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. 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 Notice of Decision – Unfavorable (Exhibits 5-1 - 5-3) dated 5/24/12. DHS also presented a corresponding SSA administrative hearing decision (Exhibits 5-4 – 5-17). The administrative hearing decision determined that Claimant was capable of performing light employment and denied SSI benefits based on application of Medical-Vocational Rule 202.21. Claimant's testimony conceded that he did not appeal the decision. Claimant's failure to appeal the denial of disability renders the SSA decision to be "final".

Claimant testified that, in the last four months, he has extremely shaky hands. Claimant stated that he needs to be evaluated for Parkinson's disease. Claimant's testimony was suggestive of a totally different condition than considered by SSA.

Documents in the four months from the date of hearing were examined. A Consultative Internal Medicine Report dated [REDACTED] (Exhibits 12-19), a Consultative Internal Examination Report (Exhibits 4-16 – 4-30) dated [REDACTED], and a Mental Status Medical Source Statement (Exhibits A1-A3) dated [REDACTED] were examined. None of the recent documents noted an increase in Claimant hand shakiness. It is found that Claimant failed to establish a new or worsening condition since an unfavorable SSA benefit denial.

Presumably, DHS is not bound by final SSI denials on SDA applications only because a client could be disabled for longer than 90 days (the durational requirement for SDA benefits) but not for the 12 month period required for MA and SSI eligibility. After the "final" SSA denial of disability, Claimant's only path to disability could be based on a temporary disability, one longer than 3 months but less than 12 months.

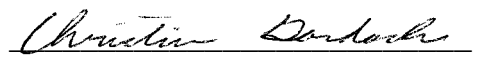
Claimant contended that he was disabled because of psychological problems, back pain, and seizures. The evidence was indicative of chronic and ongoing pain rather than a temporary exacerbation of pain. This finding is consistent with the SSA administrative hearing decision which evaluated Claimant for complaints of chronic and ongoing pain. The finding is also consistent with Claimant's statement that he applied for SSA benefits on two different occasions, presumably over a several year period. It is found that Claimant seeks disability based on an ongoing claim of disability, not a temporary disability.

Based on the presented evidence, it is found that the final denial of SSI benefits is binding on Claimant's claim for purposes of SDA eligibility. Accordingly, it is found that DHS properly terminated Claimant's SDA eligibility. Claimant is encouraged to reapply for SDA benefits and to verify a worsening in his condition.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant has no SER, MA or FAP benefit dispute. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's SDA eligibility, effective 4/2014, 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: 7/30/2014

Date Mailed: 7/30/2014

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:

