

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-31533
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: July 9, 2014
County: Wayne (19)

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 July 9, 2014, from Detroit, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

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 (see Exhibits 5-7), including retroactive MA benefits from 8/2013 (see Exhibits 13-14).
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED], Claimant applied for Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA).

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 (Exhibits 3-4) informing Claimant and Claimant's AHR of the denial.
6. On [REDACTED] Claimant's AHR requested a hearing disputing the denial of MA benefits.
7. On [REDACTED], SSA denied Claimant's SSI application for the reason that Claimant was not disabled.
8. Claimant did not appeal the SSI denial.
9. On [REDACTED], Claimant died.
10. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by reliance on a Disability Determination Explanation (see Exhibits 107-117).
11. On [REDACTED], an administrative hearing was held.
12. On [REDACTED], an Interim Order Extending the Record was mailed to Claimant's AHR to allow 7 days from the date of hearing to submit proof of an SSI appeal.
13. Following a request for extension an Interim Order Extending the Record was mailed to Claimant's AHR to allow 37 days from the date of hearing to submit proof of an SSI appeal.
14. Claimant did not appeal the SSI denial and had no basis for further review by SSA.

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 subsequently amended the request to a telephone hearing. The hearing was conducted in accordance with Claimant's AHR's amended request.

Claimant died before his hearing date. Claimant's AHR credibly testified that Letters of Authority from a Wayne County Circuit Court were obtained to authorize Claimant's AHR to act on behalf of Claimant. Claimant's AHR submitted the Letters of Authority following the hearing. Thus, Claimant's AHR was authorized to act on behalf of Claimant.

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

It was not disputed that Claimant received Medicaid for 3/2014, the month of Claimant's death. Claimant's AHR raised a dispute concerning Claimant's MA eligibility from 8/2013-2/2014. Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.*, p. 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. 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 an SOLQ (Exhibits 135-137). The SOLQ verified that Claimant applied for SSI benefits on [REDACTED]. Claimant applied for SSI benefits within one month of applying for MA benefits. The fact that Claimant's SSI application was made after Claimant's MA application date is persuasive evidence that a SSA disability decision factored the same allegations of disability associated with Claimant's MA application.

DHS presented a Disability Determination Explanation (DDE) (Exhibits 107-117) dated [REDACTED]. The DDE verified that SSA denied Claimant's SSI application based on a finding that Claimant was not disabled. The denial was consistent with SSA correspondence dated [REDACTED] (Exhibits B4-B7) which stated that "Based on a review of your health problems... you are not disabled under our rules".

AHR correspondence contended that the final SSA decision should not be considered final because Claimant happened to pass away during a period when he could have appealed the denial of disability. It is possible that Claimant would have appealed the denial of SSA benefits if he had not died; this possibility does not alter the analysis. DHS does not cite exception for failing to appeal a denial of SSI benefits. Any unwritten exception that DHS would make should mirror SSA exceptions.

It was not disputed that Claimant was only eligible for SSI benefits, not SSDI benefits. SSA provides specific policy concerning underpayments of benefits for Title XVI applicants/recipients. For adults alleging disability, only a surviving spouse is entitled to receive any underpaid benefits (see 20 CFR 416.542 (b)). Claimant had no surviving spouse; thus, Claimant's application denial of SSI benefits cannot be appealed following his death because there is no person potentially entitled to receive benefits. Claimant's SSI benefit denial is truly final. The final denial is binding on DHS. Accordingly, DHS properly found Claimant to be "not disabled" and properly denied Claimant's MA application.

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] including retroactive MA benefits from 8/2013, 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: 9/4/2014

Date Mailed: 9/4/2014

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:

