

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-16191  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: June 18, 2014  
County: Macomb (36)

**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 18, 2014, from Sterling Heights, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's 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 an unspecified date, Claimant applied for Social Security Administration benefits based on a disability.
2. On [REDACTED], SSA issued an administrative decision which determined that Claimant was not disabled and denied SSI benefits to Claimant.
3. On an unspecified date, Claimant appealed the denial to the Appeals Council.

4. On an unspecified date, the Appeals Council denied Claimant's appeal.
5. On [REDACTED], Claimant applied for MA benefits, including retroactive MA benefits from 1/2013.
6. Claimant's only basis for MA benefits was as a disabled individual.
7. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).
8. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
9. On an unspecified date, DHS mailed a Notice of Case Action informing Claimant's authorized representative of the MA benefit denial.
10. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.
11. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant cannot perform past relevant employment.
12. On [REDACTED], an administrative hearing was held.
13. Claimant presented new medical documents (Exhibits A1-A115) at the hearing.
14. During the hearing, Claimant waived the right to receive a timely hearing decision.
15. During the hearing, Claimant and DHS waived any objections to allow the admission of additional documents considered and forwarded by SHRT.
16. 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.
17. On [REDACTED], an Interim Order Extending the Record was mailed to Claimant to allow 30 days from the date of hearing to submit SSA application status documents.
18. On [REDACTED], Claimant submitted additional documents (Exhibits B1-B6).
19. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by determining that Claimant can perform past relevant work (see Exhibits 3-1 – 3-2).

20. On [REDACTED], the Michigan Administrative Hearings System received the hearing packet and updated 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.*, p. 2.

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, DHS policy concerning SSA disability denials and 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 eligibility, 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. BEM 260 (7/2013), 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.

A SSA administrative hearing decision (Exhibits 57-65; 157-162) dated [REDACTED] was presented. The decision determined that Claimant was not disabled from 2003 through the date of decision. Claimant's testimony conceded that he appealed the unfavorable SSA decision to the Appeals Council; the Appeals Council is the final appeal that can be made at SSA. An SOLQ (Exhibits 2-1 – 2-3) indicated that Claimant appeal was denied on [REDACTED]; the SOLQ was consistent with Claimant's testimony. On the off-chance that the SOLQ contained inaccurate information, Claimant was given 30 days to submit proof that the Appeals Council had not rendered a final decision on Claimant's allegation of disability. Claimant only submitted proof that he reapplied for SSA benefits on [REDACTED] (see Exhibits B1-B6). It is found that no further appeals can be made at SSA.

The SSA administrative hearing decision factored Claimant's allegation of disability related to injuries sustained in a 2003 fall. SSA denied Claimant based on application of Medical-Vocational Rule 202.21 and occupational evidence that Claimant has adequate employment opportunities in his geographical location. There has been no change in Claimant's age to justify application of a different medical-vocational rule.

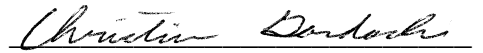
Documents supporting disability which were obtained following the SSA administrative decision include 4/2013 radiology. Presumably, the Appeals Council considered the radiological evidence and found that there was no basis to reverse the administrative decision.

Other presented documents which were not considered by SSA verified emergency room treatment in 5/2013 for dental pain, and 6/2013 and 10/2013 treatments for cellulitis. Records from 10/2013 also noted that Claimant was a chronic pain medication seeker who exaggerated symptoms. Neither cellulitis nor dental pain was verified to be a severe impairment.

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 denied Claimant's MA benefit eligibility.

### **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 1/2013, 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: 8/28/2014

Date Mailed: 8/28/2014

**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:

