

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

IN THE MATTER OF:



Reg. No.: 2014-33680
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: July 23, 2014
County: Wayne (55)

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 23, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly terminated Claimant's eligibility for Medical Assistance (MA) and State Disability Assistance (SDA) for the reason that Claimant is not a disabled individual.

The second issue is whether DHS properly failed to continue Claimant's MA and SDA eligibility despite Claimant's timely hearing request.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing MA and SDA recipient.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.

3. On an unspecified date, Claimant applied for Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA).
4. On [REDACTED], SSA issued an unfavorable administrative hearing decision which determined that Claimant was not disabled.
5. Claimant appealed the unfavorable decision to the Appeals Council.
6. On [REDACTED], the Appeals Council denied Claimant's appeal.
7. On [REDACTED], DHS terminated Claimant's MA and SDA eligibility, effective [REDACTED], by reliance on a final decision by SSA that Claimant was not a disabled individual.
8. On [REDACTED], Claimant requested a hearing disputing the termination of MA and SDA benefits.
9. DHS failed to stop the pending SDA and MA terminations.

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

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.

DHS presented a SSA administrative hearing decision (Exhibits 65-81). DHS also presented a Notice of Appeals Council Action (Exhibits 6-9) dated [REDACTED]. The SSA correspondence verified that Claimant was deemed to be "not disabled" by an administrative hearing judge and that the decision was affirmed by the Appeals Council. There was no evidence suggesting that Claimant had a different impairment or deteriorating condition (or change in circumstance) which would justify ignoring the SSA

determination of disability. It is found that an unfavorable “final” SSA denial of SSI benefits is binding on DHS. Accordingly, it is found that DHS properly terminated Claimant’s MA benefit 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.

It has already been found that Claimant is not disabled for purposes of MA benefits based on a binding SSA determination that Claimant was not disabled. DHS policy is silent concerning the effect of an unfavorable final SSA determination of disability. Presumably, DHS did not make SSA decisions binding on SDA benefit determinations 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. Presented medical evidence was indicative of a claim of ongoing disability, not a temporary disability. The SSA administrative hearing decision was also indicative of a claim of ongoing disability.

Based on the presented evidence, it is found that the SSA denial of disability is binding on Claimant’s SDA eligibility. Accordingly, it is found that DHS properly terminated Claimant’s SDA eligibility.

Though it was found that DHS properly terminated Claimant’s MA and SDA eligibility, DHS did not follow proper procedures following Claimant’s hearing request. Claimant may have been entitled to receive MA and SDA benefits pending the outcome of the hearing.


The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220 (1/2014), p. 11. It was not disputed that Claimant requested a hearing by the timely hearing request date.

In failing to continue Claimant's eligibility pending the hearing outcome, DHS appeared to rely on policy which states that written notice is not required to implement a hearing decision or policy hearing authority decision *Id.*, p 2. Presumably, DHS interpreted this policy to extend to SSA decisions; such an interpretation is unreasonable. It is found that Claimant was entitled to receive MA and SDA benefits pending the outcome of her administrative hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA and SDA eligibility based on a final SSA determination that Claimant is not disabled. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to continue Claimant's MA and SDA eligibility pending the hearing outcome. It is ordered that DHS reinstate Claimant's MA and SDA eligibility from [REDACTED] through [REDACTED] subject to the finding that DHS failed to continue Claimant's eligibility despite a timely hearing request. The actions taken by DHS are **PARTIALLY REVERSED**.


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

Date Signed: 8/13/2014

Date Mailed: 8/13/2014

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:

