

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003234
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 8, 2015
County: Wayne (35)

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 April 8, 2015. [REDACTED]

[REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHS properly determined Claimant's Medical Assistance Application based on Claimant's Supplemental Security Income (SSI) eligibility.

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, including retroactive MA benefits from January 2010.
2. On [REDACTED], Claimant applied for SSI benefits.
3. On [REDACTED], the Social Security Administration (SSA) determined that Claimant was a disabled individual as of May 2010 and that Claimant was eligible to receive SSI benefits beginning January 2011.
4. On [REDACTED], DHS mailed an Application Eligibility Notice (Exhibit 3) informing Claimant's AHR that Claimant's MA application was denied based on a determination that Claimant was not disabled.

5. On [REDACTED], Claimant's AHR requested a hearing (see Exhibit 2) to dispute the denial of Claimant's MA eligibility.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. DHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. DHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant died before the hearing date. Claimant's AHR presented Letters of Authority (Exhibit 5) for Claimant's estate. The Letters of Authority verified Claimant's AHR authority to proceed as an AHR.

Prior to a substantive analysis of Claimant's AHR's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, a 3-way telephone 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 (October 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.* It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150 (October 2009), p. 1. Some clients also qualify for retroactive (retro) MA coverage for up to three calendar months prior to SSI entitlement. *Id.*

Claimant's AHR presented a SSA award letter (Exhibits B2-B18). The award letter stated that SSA approved Claimant for SSI benefits beginning January 2011 (see Exhibit B3). Claimant's receipt of SSI, effective January 2011, entitles Claimant to automatic MA eligibility beginning January 2011.

The analysis will proceed to determine Claimant's MA eligibility from January 2010-December 2010. To determine Claimant's MA eligibility for that time frame, it must be determined when Claimant became disabled.

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.

Claimant's SSI award letter verified that Claimant applied for SSI benefits on December 29, 2010 (see Exhibit B2). The award letter verified that SSA found Claimant to be disabled as of May 2010 (see Exhibit B4). Presumably, the disability onset date found by SSA was a final decision, as there was no evidence that Claimant appealed the SSI approval.

A disability onset month of May 2010 as found by SSA has a twofold effect. SSA's final determination of disability equates to a finding that Claimant is a disabled individual as of May 2010. The disability onset date also equates to a finding that Claimant is not disabled before May 2010.

There are occasions when a disability onset date found by SSA does not equate to a finding of non-disability before the onset date. The most common example is when the disability onset mirrors the SSI application date. Such a decision implies that SSA was uninterested in examining disability from before the SSI application date because an applicant would receive the same SSI benefits as long as the disability onset date did not occur after the application date. SSA could have found Claimant to be disabled as far back as January 2010, but did not. The disability onset date of May 2010 implies that SSA rejected a finding that Claimant was disabled before May 2010.

Claimant's AHR contended that other DHS policy is supportive in finding that Claimant is a disabled individual, at least for 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 (February 2010), p. 8.

Claimant's AHR's essentially contended that "is available" should be interpreted as "is automatic". Such an interpretation is unpersuasive for multiple reasons.

First, such an interpretation contradicts DHS policy stating 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. In the present case, Claimant happens to be ineligible for retroactive MA benefits because of a binding SSA disability determination. This interpretation is also consistent with other DHS policy. For example, MA eligibility is automatically established by SSI eligibility presumably because SSI eligibility requirements mirror MA eligibility requirements. DHS has no reason to determine MA eligibility factors when SSA already determined that a client met identical SSI eligibility factors. When SSI eligibility is not established, there is no decision by SSA that can be presumed to establish MA eligibility. It is highly doubtful that DHS intended to give clients a three month pass from meeting MA eligibility requirements solely because of a client's later SSI eligibility. It is found that DHS properly denied Claimant's MA eligibility prior to May 2010 based on a binding SSA determination that Claimant was not disabled before May 2010.

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 eligibility for the period of January 2010-April 2010. 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 denied Claimant's application for MA benefits. It is ordered that DHS reinstate Claimant's MA benefit application dated March 3, 2010 and process the application subject to the following findings:

- (1) Claimant was a disabled individual, effective May 2010; and
- (2) Claimant was SSI eligible, effective January 2011, and eligible for MA benefits.

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



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/10/2015**

Date Mailed: **4/10/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

