

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Reg No: 2006-11594
Issue No: 2009, 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 30, 2006
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter was conducted by Administrative Law Judge Jacqueline Hall-Keith by telephone conference on October 30, 2007 pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing received by the Department. Judge Jacqueline Hall-Keith left State employment before the hearing decision was written. The undersigned Administrative Law Judge has written this hearing decision after review of evidence in the record including the recording of the actual hearing. At the hearing, the Claimant was present and testified. Claimant was represented by [REDACTED] of [REDACTED]. Michael Demis, MCW appeared on behalf of the Department.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of Medical Assistance ("MA") and State Disability Assistance ("SDA") programs.

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 filed for MA & SDA on November 3, 2005.
2. Claimant's impairments are GERD, chest pain, hypertension, COPD, asthmas, emphysema and hearing loss in right ear.
3. Claimant's physical symptoms are shortness of breath, chest pain, pain in low back, pain in hands, numbness and burning in legs and calves, and cramping.
4. Claimant's mental symptoms are memory problems, difficulty concentrating, fatigue, and sleep disturbances.
5. Claimant is 5'6" tall and weighs 140 pounds.
6. Claimant testified to the following physical limitations:
 - Lifting up to 5 lbs.
 - Sitting – 10 minutes
 - Walking – ½ block
 - Difficulty climbing stairs
7. Claimant's impairments will last or have lasted for a continuous period of not less than 12 months.
8. Claimant is 55 years of age.
9. Claimant has an 11th grade education and a GED.
10. Claimant last worked in 1997 for at a laundry mat. Claimant also worked as a nurse's assistant in 1984.
11. Claimant testified that she performs household activities such as washing dishes while sitting down but that she has difficulty grocery shopping by herself.
12. Claimant testified that her hobbies include reading, watching TV, and drawing.
13. The Department found that Claimant was not disabled and denied Claimant's application on January 12, 2006.
14. At the hearing, additional records were ordered. The Claimant's representative was unable to obtain the records and nothing additional was submitted.
15. Medical records examined are as follows:

[REDACTED] – Hospital Admission (Exhibit 1, pp. 9- 17)

PMH of HTN, Emphysema as well as Heroin and Cocaine abuse presented to ER with epigastric as well as chest pain with shortness of breath for a few days. Pt stopped taking her blood pressure medications secondary to not being able to afford them.

██████████ Adenosine Stress Myocardial Perfusion Imaging (Exhibit 1, p. 18)

Normal Study

ECG findings: No ECG evidence of myocardial ischemia.

██████████████████████ Hospital Admission (Exhibit 1, pp. 22-29)

Pt states that she has been diagnosed with emphysema 6 months ago – at her baseline she gets short of breath after walking half a block. She uses Albuterol and Atrovent on average twice a day.

DX: Chronic obstructive pulmonary disease exacerbation

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.1 *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Claimant has been denied RSDI/SSI. Because of the Social Security Administration determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability. PEM 260. SSA's determination that disability or blindness does not exist for SSI is final for MA if:

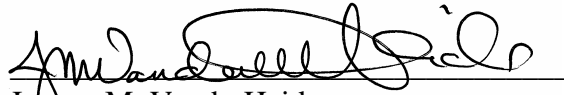
- The determination was made after ██████████, and
- No further appeals may be made at, or
- The client failed to file an appeal at any step within SSA's 60 day limit, and
- The client is not claiming:
 - o A totally different disabling condition than the condition SSA based its determination on, or
 - o An additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on.

Eligibility for MA based on disability or blindness does not exist once SSA's determination is final. PEM/BEM 260, pp. 2-3. As the Claimant did not appeal the denial of SSI/RSDI and Claimant's testified that she applied for SSI/RSDI for the same impairments, this Administrative Law Judge no longer has jurisdiction to hear the issue of disability pursuant to PEM/BEM 260. Accordingly, the Departments denial of MA and SDA is affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that there was sufficient evidence presented to affirm the Department's actions.

Accordingly, it is ordered that the Department's determination denying SDA and MA benefits effective January 12, 2006 is AFFIRMED.


Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 02/01/10

Date Mailed: 02/02/10

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JV/dj

2006-11594/JV

cc:

