

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Claimant

Reg. No: 2007-08990  
Issue No: 2009  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 5, 2008  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. The hearing in this matter was conducted by Administrative Law Judge Jacqueline Hall-Keith on March 5, 2008, pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. Claimant was represented by [REDACTED] with [REDACTED]. Judge Jacqueline Hall-Keith left State employment before the hearing decision was written. The record closed on October 1, 2008. The undersigned Administrative Law Judge has written this hearing decision after review of all evidence in the record.

ISSUE

Is claimant disabled for the purposes of the Medical Assistance program?

FINDINGS OF FACT

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

(1) Claimant applied for Medical Assistance on September 29, 2006, retroactive to June 2006.

(2) Claimant's impairments have been diagnosed as non-Hodgkin's lymphoma (stomach) with re-growth, hypertension, chronic obstructive pulmonary disease, history of hepatitis C, history of pneumonia and history of intravenous drug use.

(3) Claimant's physical symptoms are constant pain in the back, legs and stomach; shortness of breath; nausea; and hand tremors.

(4) Claimant's impairments will last or have lasted for a continuous period of not less than 12 months or will result in death.

(5) Claimant is 50 years of age.

(6) Claimant has an 8<sup>th</sup> grade education.

(7) Claimant has employment experience as a factory worker and laborer.

(8) Claimant has significant limitations on physical activities involving sitting (no more than ½ an hour at a time), standing (no more than 10 minutes at a time), walking (minimally), bending, lifting, and stooping. Claimant uses a wheelchair or walker for ambulation.

(9) The department found that claimant was not disabled and denied claimant's application on November 6, 2006.

(10) New medical evidence (marked new in the file) was received and entered after the hearing. It was submitted to the State Hearing Review Team for reconsideration. The State Hearing Review Team again determined that the claimant was not disabled for the program.

#### CONCLUSIONS OF LAW

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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 400.10, *et seq.*, and MCL 400.105; MSA 16.490(15). Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

If an individual has an impairment(s) which meets the durational requirement and is listed in Appendix 1 or is equal to a listed impairment(s), he or she is found disabled without considering age, education and work experience. 20 CFR 416.920(d).

In the present case, this Administrative Law Judge does find disability based solely on the medical evidence. In addition to claimant's hypertension, hepatitis C and chronic obstructive pulmonary disease, claimant has been diagnosed with non-Hodgkin's lymphoma. According to hospital records, claimant was diagnosed with this condition in October of 2007. According to a medical report dated in November of 2007, the physician indicated that "diffuse large cell CD20-positive, Stage III-A diffuse large cell non-Hodgkin's lymphoma that was just diagnosed in early October of 2007. He has had two cycles of CHOP (Cyclophosphamide, Doxorubicin Hydrochloride, Oncovin, Prednisolone), one cycle of Rituxan." In that report, the physician noted that claimant was worsening on this date (November 21, 2007). Claimant was again hospitalized in [REDACTED]. The physician in a report dated [REDACTED] indicated that claimant was "re-growing the lump and his mass, which is enlarging and in addition there is a new subcutaneous lump in his left anterior shoulder." Claimant was again placed on chemotherapy of Rituxan followed by fusional chemotherapy using 20 mg. of Doxorubicin, 100 mg. of Etoposide and .8 mg. of Bincristine. Considering the medical evidence, claimant's non-Hodgkin's lymphoma which required more than one anti-neoplastic treatment regimen within a 12-month period does meet or is the medical equivalent of a listed impairment as set forth in Appendix 1, Section 13.05. 20 CFR 416.926. Claimant is therefore disabled for the purposes of the Medical Assistance program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is medically disabled under the Medical Assistance program as of June 1, 2006. Therefore, the department is ORDERED to initiate a review of the application of September 29, 2006, if not done previously, to determine claimant's non-medical eligibility. The department shall inform the claimant of the determination in writing. The case shall be reviewed in January 2010.

/s/  
Rhonda P. Craig  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 06/02/09

Date Mailed: 06/05/09

**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 receipt 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.

RPC/cv

cc:

[REDACTED]