

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: 2007-22950  
Issue No: 2009  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
December 13, 2007  
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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. After due notice, a telephone hearing was held on December 13, 2007. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) eligibility standards?

FINDINGS OF FACT

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

(1) On June 6, 2007, this 64-year-old, divorced, pack per day smoker with an 8<sup>th</sup> grade education applied for Medicaid (MA)(Department Exhibit #1, pgs 197, 223 and 224).

(2) Claimant has an unskilled work history (factories/housecleaning), but she has not worked anywhere since 2004 when she got fired.

(3) Claimant stands approximately 5'0" tall and weighs approximately 100 pounds; she lives independently in a third floor apartment and has a valid driver's license/roadworthy vehicle.

(4) Two months after application, specifically on August 17, 2007, claimant was treated and released from the local Emergency Room (ER) for a pancreatic flare-up secondary to her ongoing alcohol abuse; alcohol cessation was strongly recommended (Department Exhibit #2, pgs 1-9).

(5) All claimant's other objective medical test results were negative for any other significant physical impairments (Department Exhibit #2, pgs 14-22).

(6) In the month of application (6/07), claimant also was treated twice in the local ER for pancreatic flare-ups secondary to ongoing alcoholism (Department Exhibit #1, pgs 83-206).

(7) During claimant's June 15, 2007 ER visit she stated she did not want a nicotine patch to assist in tobacco cessation and she was not taking any vitamins as suggested; in fact, claimant's only listed medication at that time was a standard high blood pressure pill (Metoprolol) (Department Exhibit #1, pg 197).

(8) Claimant's only other documented condition is osteoarthritis in the left hip and right shoulder, which are not uncommon for someone of her age (Department Exhibit #1, pg 198).

(9) On July 23, 2007, the department sent claimant a written notice denying her MA application; consequently, claimant filed a hearing request dated August 9, 2007.

#### 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 400.10, *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).

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

The evidence presented establishes no severe mental impairments exist in claimant's case. Additionally, the records overwhelming support a finding claimant's only physical impairments during the disputed period were multiple pancreatitis flare-ups solely brought on by claimant's ongoing alcoholism.

In 1997, PL 104-121 went into effect, eliminating eligibility for monthly disability benefits to those persons whose primary impairment is substance abuse/dependency when that substance abuse/dependency is a material contributing factor to the individual's ability to engage in substantial gainful work activity. "Material to the determination" means that, if the individual stopped using drugs or alcohol, his or her remaining limitations would not be disabling. Claimant has shown no impairment other than alcohol induced pancreatitis and normal, age-related osteoarthritis. Consequently, in the absence of evidence to the contrary, this Administrative Law Judge concludes claimant's ongoing alcoholism disqualifies her from disability-based MA pursuant to PL 102-121.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled by MA disability standards.

Accordingly, the department's decision is AFFIRMED.

/s/  
\_\_\_\_\_  
Marlene B. Magyar  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: May 12, 2009

Date Mailed: May 13, 2009

**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.

MBM/db

cc:

