

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg. No. 2007-27691

Issue No. 2009, 4031

Case No: ██████████

Load No. ██████████

Hearing Date:

February 6, 2008

DHS County: Wayne

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter was conducted by Administrative Law Judge Judith Ralston-Ellison on February 6, 2008 pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing received by the Department. 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 scheduled hearing date, the Claimant did not appear. The representative, ██████████ of ██████████ appeared by telephone.

The record was left open to obtain additional medical information. The closure date was waived on the record. The medical information was submitted to the State Hearing Review Team (SHRT) and the application was denied. This matter is now before the undersigned for final decision.

ISSUE

Whether the Department properly determined the Claimant is not "disabled" for purposes of Medical Assistance based on disability (MA-P) retroactive MA-P for August 2006 and State Disability Assistance (SDA) programs?

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 November 28, 2006, the Claimant applied for MA-P retroactive MA-P to August of 2006 and SDA.
2. On May 1, 2007, the Department denied the application due to insufficient evidence.
3. On July 27, 2007, the Claimant filed a timely hearing request to protest the Department's determination.
4. Claimant is 31 years of age.
5. Claimant has a medical history of suicide attempts and substance abuse.
6. Medical records examined are as follows:

[REDACTED] 1/27/04 – 1/29/04, in part, (Exhibit A, pp. 1-38)

Patient admitted elapsing and abusing intravenous heroin. He became depressed with suicidal ideation because of his failure to maintain himself substance free.

DISCHARGE DIAGNOSIS: Adjustment Disorder with Depressed Mood; Substance Abuse – Heroin in partial remission.

[REDACTED], 10/7/07, in part, (Exhibit 1, pp. 14- 23)

Patient using cocaine every day for the past 4 days.

[REDACTED], in part, (Exhibit 1, pp. 24-51) 10/6/6/06 Suicide Attempt:

Patient walked into PIC stating that he had taken unknown amount of Vicoden and that he was experiencing suicide ideations. Admitted for substance abuse.

[REDACTED], in part, (Exhibit 1, pp. 59-101)

8/8/06 Suicide Attempt

Patient drank and cut himself with a bottle, collapsed on ER floor.

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).

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

. . . 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 CFR416.905

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity; the severity of impairment(s); residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. A determination that an individual is disabled can be made at any step in the sequential evaluation. Then evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity (SGA). 20 CFR 416.920(b). In this case, under the first step, the Claimant was not present at the hearing February 6, 2008. No independent evidence of the Claimant’s current SGA was submitted. Whether the Claimant was engaged in SGA up to February 6, 2008 was not possible to determine due to lack of evidence. In step one, it is the

Claimant's burden to provide evidence that he is not engaged in SGA. Without more evidence the Claimant can not be determined to be eligible for MA-P at step one.

The undersigned finds that based on the Claimant's failure to appear and testify at the hearing February 6, 2008, a determination of eligibility or ineligibility due to SGA cannot be made. The Claimant is found "not disabled" at step one.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 1939 PA 280, as amended. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.1 et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI or RSDI benefits based on disability or blindness or the receipt of MA benefits based on disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in PEM 261.

In this case, there is insufficient evidence to support a finding that Claimant's impairments meet the requirements under SSI disability standards, or prevents substantial gainful activity. This Administrative Law Judge finds the Claimant is presently not disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law, decides that the Claimant is “not disabled” for purposes of the Medical Assistance program and State Disability Assistance programs.

It is ORDERED; the Department’s decision is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed: 05/28/09

Date Mailed: 05/28/09

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 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

cc:

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