

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. 2007-28894
Issue No. 2009
Case No: [REDACTED]
Load No. [REDACTED]
Hearing Date:
January 31, 2008
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 January 31, 2008 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 not present and no witnesses testified on behalf of Claimant. Cheryl Pettway, MCW appeared on behalf of the Department.

ISSUES

Whether the Department properly determined the Claimant is not "disabled" for purposes of Medical Assistance based on disability (MA-P)?

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 5/25/07, the Claimant applied for MA benefits.
2. On 6/27/07, the Department denied the application.
3. On 11/14/07, the State Hearing Review Team denied the Claimant's request based on the medical evidence not documenting a mental or physical impairment that significantly limits the Claimant's ability to perform basic work activities.
4. On 7/27/07, the Claimant filed a timely hearing request to protest the Department's determination.
5. Claimant's date of birth is [REDACTED]; and the Claimant is 39 years of age.
6. Claimant completed grade 12 and also has an Associates Degree in Culinary Arts.
7. Claimant's work history includes being a Chef for 19 years.
8. Claimant has a medical history of black outs, hallucinations, alcohol addiction, and left broken foot.
9. The following medical records were reviewed:

[REDACTED] Hospital, [REDACTED], in part (Exhibit 1, p. 7-21)

Patient presents to the ER with complaints of impending delirium tremens and substance abuse. Patient states that he normally consumes at least 1 pint of alcohol daily. Patient presented with 2 day history of increasing hallucinations and not being able to sleep. Patient admitted for monitoring.

ASSESSMENT AND PLAN:

1. Acute hallucinations, insomnia, diaphoreses and diarrhea. Diagnosis in this case will be alcohol abuse and also it could be secondary to severe dehydration. It also could be secondary to drug reaction, especially since the patient had received antibiotic three days ago, or it could be psychosis.
2. At the beginning fist status hyperkalemia and then hypokalemia and hyomagnesemia.
3. Neisseria gonorrhoea, sexually transmitted disease and also history of UTI.

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 January 31, 2008. No independent evidence of the Claimant’s current SGA was submitted. Whether the Claimant was engaged in SGA up to

January 31, 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 cannot 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 January 31, 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
For Jacqueline Hall-Keith
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed: 05/08/09

Date Mailed: 05/11/09

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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