

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: 2008-12133
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 21, 2008
Oakland 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. After due notice, an in-person hearing was held on August 21, 2008. Claimant was represented by [REDACTED] with [REDACTED] [REDACTED]. The record closed on January 9, 2009.

ISSUE

Is claimant disabled for the purposes of the Medical Assistance and State Disability Assistance 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) Claimant applied for Medical Assistance and State Disability Assistance benefits on October 26, 2007. Claimant requested Medical Assistance retroactive to July 2007.

(2) Claimant's impairments have been medically diagnosed as diabetic peripheral neuropathy, history of nephropathy, hypertension, non-insulin dependent diabetes, history of cervical fusion (C5-C7), disc herniation, reflux disease, gastritis, hiatal hernia, diverticulosis and vision loss.

(3) Claimant's physical symptoms are constant pain in the feet, neck, shoulders, and lower back; pain in the knees; swelling of the feet; numbness in the right arm and both feet; poor balance; and frequent blistering and sores on the feet. Claimant has hand motion vision acuity only.

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

(5) Claimant is [REDACTED].

(6) Claimant has one year of college education.

(7) Claimant has employment experience working at a computer help desk and as a factory worker.

(8) Claimant has significant limitations on physical activities involving sitting (no more than one hour at a time), standing (no more than 3 minutes at a time), walking (no more than 5 minutes at a time), bending, lifting, and stooping. Claimant has a limited range of motion in her back.

(9) The department found that claimant was not disabled and denied claimant's application on January 2, 2008.

(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 claimant was not disabled for the programs.

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; 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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *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).

The Department of Human Services conforms to state statute in administering the State Disability Assistance program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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 in addition to claimant's medical problems involving her back, claimant has significant limitations with regards to her diabetic peripheral neuropathy and nephropathy. Claimant has lost all but hand motion in both eyes. In a report dated

██████████, the physician noted that on examination the best corrected visual acuity is

hand motion only. He noted that it is the same at distance and near with all spectacle corrections. He indicated that the patient stated that she is unable to perform confrontation finger counting, although she states that she is aware of the presence of the physician's hands and fingers. There are mild nuclear sclerotic changes to the lenses. Claimant's treating physician in a report dated [REDACTED] indicates that claimant is unable to ambulate without a service dog.

Additionally, the physician noted that claimant would not be able to use her right hand for fine manipulation with repetitive actions and would not be able to use either leg for repetitive actions in operating foot controls. It appears that claimant's vision loss does meet or is the medical equivalent of a listed impairment as set forth in Appendix 1, Section 2.02. 20 CFR 416.926. Claimant is therefore disabled for the purposes of the Medical Assistance and State Disability Assistance programs.

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 and State Disability Assistance programs as of July 1, 2007. Therefore, the department is ORDERED to initiate a review of the application of October 26, 2007, 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 February 2010.

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

Date Signed: February 12, 2009

Date Mailed: February 18, 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.

RPC/cv

cc:

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