

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: 2008-12983

Issue No: 2009/4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 16, 2008

Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

AMENDED 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 July 16, 2008. Claimant personally appeared and testified. She was assisted by

[REDACTED]

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) 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) Claimant is a divorced, 51-year-old heavy smoker with an Associates Degree in Applied Science who stands approximately 5'3" tall and weighs approximately 155 pounds; she is right hand dominant.

(2) Claimant has a semi-skilled work history in design drafting but she has not been substantially gainfully employed since June 2007.

(3) On September 28, 2007, claimant's authorized representative filed an MA/retro-MA/SDA application on claimant's behalf.

(4) During the retro-MA period, on June 13, 2007, claimant was hospitalized due to severe shortness of breath, chest pain, light headedness and bilateral upper chest pressure with radiation down her left arm (Department Exhibit #1, pg 58).

(5) Claimant was in the hospital one week (discharge date: 6/20/07) during which time she underwent quadruple coronary artery grafting x 4 due to multiple, severe blockages (Department Exhibit #1, pgs 69-73).

(6) Approximately three weeks later, on July 8, 2007, claimant was rehospitalized with a full blown heart attack which necessitated recatheterization (Department Exhibit #1, pgs 3, 8, 10 and 11).

(7) On September 13, 2007, the department denied disability assistance on an earlier application claimant filed on July 3, 2007 (Department Exhibit #1, pg 1)(See also Finding of Fact #3 above).

(8) After that, claimant had multiple hospitalizations and procedures, all related to her diagnosed, significant end-stage Coronary Artery Disease (CAD)(Client Exhibit B, pg 1; Client Exhibit C, pg 2).

(9) Claimant continues to experience chronic chest pain since undergoing one previous open-heart surgery, six cardiac catheterizations, one stenting procedure and two myocardial infarctions; other ongoing symptoms include low exercise tolerance, shortness of

breath, debilitating fatigue, depression and medication side effects secondary to her extensive medication schedule (Client Exhibit D).

(10) By April 1, 2008, claimant was receiving ongoing MA based on disability.

(11) Claimant's authorized representative filed a timely hearing request to dispute the department's position that claimant's cardiac disability did not start until April 2008 because claimant's condition has done nothing but deteriorate since her disputed application was filed in September 2007 (Client Exhibit B, C, D and E).

(12) None of claimant's treating physicians or specialists, including a residual functional capacity evaluation conducted by [REDACTED], assesses claimant as capable of maintaining any type of substantial gainful work activity.

(13) Specifically, [REDACTED] states:

Due to all of the patient's conditions, the patient is disabled from further employment (Client Exhibit C and D).

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 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).

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

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

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.

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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...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).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

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

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).

2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

Based on Finding of Fact #1-13 above and the credible medical records submitted at hearing, this Administrative Law Judge answers:

Step 1: No.

Step 2: Yes.

Step 3: Yes. Claimant's severe Coronary Artery Disease (CAD) met or equaled Listing 4.02 and/or 4.04 at all times relevant to her September 28, 2007 MA/retro-MA/SDA application.

As such, the department's denial of that application was erroneous and it simply cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining claimant was not disabled at all times relevant to the filing of her September 28, 2007 MA/retro-MA/SDA application.

Accordingly, the department's action is REVERSED and this case is returned to the local office for application reinstatement and processing to determine whether claimant met all of the other financial and non-financial eligibility factors necessary to qualify for assistance under that application. If the department determines all remaining eligibility factors were met, coverage shall begin retroactive to June 1, 2007. **SO ORDERED.**

/s/

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

Date Signed: October 8, 2009

Date Mailed: October 8, 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:

