

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.: 2008-24490

Issue No.: 2009/4031

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 13, 2008

Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on October 13, 2008. The claimant appeared and testified. The claimant was represented by [REDACTED] of [REDACTED]. Following the hearing, the record was kept open for receipt of additional medical evidence. Additional documents were received and reviewed.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) program benefits?

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 January 9, 2008, an application was filed on claimant's behalf for MA-P and SDA benefits. The application requested MA-P retroactive to December 2007.

- (2) On March 6, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- (3) On June 3, 2008, a hearing request was filed to protest the department's determination.
- (4) Claimant, age 52, had an 11<sup>th</sup> grade education.
- (5) Claimant last worked in September 2007 as a limousine driver. Claimant has also performed landscape work and worked as a commercial van driver.
- (6) Claimant had a history of diabetes mellitus and alcohol abuse.
- (7) Claimant was hospitalized [REDACTED] through [REDACTED]. His discharge diagnosis was debility, hyperglycemia, hyponatremia, dehydration, acute renal failure, diabetes mellitus with diabetic peripheral neuropathy, alcohol abuse, and gait difficulty. Claimant's diabetes was described as uncontrolled and claimant was said to be suffering from diarrhea thought to be related to his diabetes with possible autonomic dysfunction. Claimant was also described as suffering with heart failure.
- (8) Claimant was admitted to [REDACTED] on [REDACTED] [REDACTED] and remained through [REDACTED]. His discharge diagnosis was diabetic peripheral neuropathy, foot drop, and numbness causing gait disturbance, status post diabetic ketoacidosis, acute renal failure, congestive heart failure, dehydration, and electrolytes imbalance; ETOH abuse; hypertension; coronary artery disease; and depression.
- (9) Claimant was hospitalized on [REDACTED] until the date of his death [REDACTED]. His principal diagnosis was cardiopulmonary arrest with prolonged downtime; anoxic encephalopathy; seizure due to encephalopathy; acute renal failure; and ischemic cardiomyopathy.

- (10) Claimant's death certificate indicates a cause of death of coronary artery disease and ischemic cardiomyopathy.

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).

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 CFR 416.905

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 the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, 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. 20 CFR 416.920(b). In this case, claimant was not working during any period relevant to this matter. Accordingly, claimant may not be disqualified from MA at this step in the sequential evaluation process.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Basic work activities means 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).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6<sup>th</sup> Cir, 1988). As a result, the department may only screen out claims at this level which are "totally groundless" solely from a medical standpoint. The *Higgs* court used the severity requirement as a "*de minimus* hurdle" in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

In this case, claimant has presented the required medical data and evidence necessary to support a finding that claimant had significant physical limitations upon claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling. Medical evidence has clearly established that claimant had an impairment (or combination of impairments) that had more than a minimal effect on claimant's work activities. See Social Security Rulings 85-28, 88-13, and 82-63.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Based upon the hearing record, the undersigned finds that claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A, Section 4.02. Claimant clearly had ongoing problems with coronary artery disease, heart failure, poorly controlled diabetes mellitus, and diabetic neuropathy. He was hospitalized on several occasions as a result of those problems. Claimant was seen by a consulting internist for the department on February 12, 2008. The consultant provided the following diagnosis and impression:

1. Type I diabetes which is under treatment with insulin, Lantus and regular, is uncontrolled most probably because of frequent high fasting blood glucose in his diary.
2. History of Alcohol Abuse.
3. Diabetic Neuropathy and Autonomy Neuropathy in the view of the fact that patient has nighttime diarrhea.
4. R/O Diabetic Nephropathy with respect to 2+ edema on the lower extremities.
5. Hypertension most probably may have contributed to the incidence of nephropathy. As a result we can say hypertension with target organ damage, possibly.

Claimant died on [REDACTED]. His death certificate lists coronary artery disease and ischemic cardiomyopathy. The record supports a finding that claimant met or equaled a

listed impairment which resulted in his death. Accordingly, the undersigned finds that claimant was disabled for purposes of the MA program.

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).

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 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon 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 Item 261. In this case, because claimant qualifies for MA based upon disability as stated above, he was also “disabled” for purposes of the SDA program.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant met the definition of medically disabled under the Medical Assistance and State Disability Assistance programs as of December 2007.

Accordingly, the department is ordered to initiate a review of the January 9, 2008 application, if it has not already done so, to determine if all other non-medical eligibility criteria are met. The department shall inform claimant's authorized representative of its determination in writing.

/s/  
Linda Steadley Schwarb  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 07/14/09

Date Mailed: 07/14/09

**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 the Circuit 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.

LSS/jlg

cc:

A large black rectangular redaction box covers the names of the recipients in the 'cc:' field.