

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: 2008-26701

Issue No: 2009; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 16, 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 October 16, 2008. Claimant was represented by [REDACTED]

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 December 21, 2007. Claimant requested Medical Assistance retroactive to September 2007.

(2) Claimant's impairments have been medically diagnosed as asthma, pneumonia (disquamative interstitial), mediostinal lymphadenopathy with nodule in the lung, reflux disease,

chronic obstructive pulmonary disease, erosive gastritis, pyloric channel ulcer, fibromyalgia, and depression/mood disorder.

(3) Claimant's physical symptoms are constant pain in the lungs; weakness in the legs, severe fatigue and shortness of breath upon medium exertion (occasionally at rest), claimant also has nausea (1 to 2 times a week) and diarrhea (twice a month).

(4) Claimant has the following emotional limitations: Poor memory, anxiety attacks (3 or 4 times a week), crying spells (3 times a week), occasional episodes of confusion, episodes of fear, episodes of nervousness, fatigue, sleep disturbances, low self esteem, social isolation and feelings of guilt.

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

(6) Claimant is 45 years of age.

(7) Claimant has a high school education.

(8) Claimant has employment experience as a secretary.

(9) Claimant has significant limitations on physical activities involving sitting (no more than an hour at a time), standing (no more than 30 minutes at a time), walking (no more than 100 feet at a time), bending, lifting and stooping.

(10) The department found that the claimant was not disabled and denied claimant's application on April 18, 2008.

(11) Upon claimant's request for a hearing, medical evidence was submitted to the State Hearing Review Team. The State Hearing Review Team 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. 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).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(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 this Administrative Law Judge finds disability based solely on the medical evidence. In addition to claimant's severe physical problems involving her lungs, stomach and her fibromyalgia, claimant has been diagnosed with depression. Claimant has a number of symptoms as cited above relating to this condition. The examining physician noted that claimant had low self esteem and diminished motor activity. She was tense, worried and had superficial insight. He indicated that claimant lacked spontaneity and had impoverishment of speech and thought. He further noted that claimant appeared to be cognitively impaired; distant and unfriendly. Claimant's examining physician, in [REDACTED], gave claimant a Global Assessment of Functioning Score of 35, which indicates some impairment in reality testing or impairment in speech and communication or serious impairment in occupational, school functioning, interpersonal relationships, judgment, thinking or mood. Claimant's treating physician indicated in a report dated [REDACTED], that claimant had a Global Assessment of Functioning Score of 30, which indicates the presence of hallucinations or delusions which influence behavior or serious impairment in the ability to communicate with others or serious impairment in judgment or inability to function in almost all areas. This is despite claimant's compliance with her medication regimen. Considering the medical evidence, and claimant's testimony, it appears that claimant's impairment of depression does meet or is the medical equivalent of a Listed Impairment as set forth in Appendix 1, Section 12.04. 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 September 1, 2007. Therefore, the department is ordered to initiate a review of the application of December 21, 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 December 2009.

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

Date Signed: 04/21/09

Date Mailed: 04/21/09

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 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.

RC/sd

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