

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED], Deceased
By [REDACTED],
Personal Representative
Of the Estate of [REDACTED].

Reg. No.: 2008-28816
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 25, 2009
Macomb County DHS (20)

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 March 25, 2009. [REDACTED] appeared as the authorized representative of the personal representative of the estate 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) from May through July 2007?

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 August 24, 2007, an application was filed on behalf of the estate of [REDACTED] requesting MA-P retroactive to May 2007.

- (2) The department did not respond to the application.
- (3) On July 31, 2008, the authorized representative for the personal representative of claimant's estate filed a request for a hearing to protest the department's failure to provide requested benefits.
- (4) Claimant had a history of multiple cerebrovascular accidents.
- (5) Claimant was hospitalized in May 2007 as a result of bilateral lower extremity weakness which she had experienced for several days. Her discharge diagnosis was colitis, hypokalemia, myopathy secondary to hypokalemia, hepatitis, and anemia.
- (6) Claimant was hospitalized [REDACTED] for a massive cerebrovascular accident of the left hemisphere. Claimant was transferred to a hospice on [REDACTED].
- (7) Claimant died on [REDACTED]. Her death certificate listed left hemispheric stroke as the primary cause of death due to hypercoaguable state.
- (8) The department opened MA-P for August 2007 but declined to provide MA-P for May through July 2007.
- (9) Claimant was disabled from May through July 2007.

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).

In this matter, the question is whether claimant was “disabled” for purposes of MA from May through July 2007. A careful consideration of the hearing record supports a finding that claimant was indeed disabled affective May 2007. She was hospitalized [REDACTED] with complaints of bilateral lower extremity weakness which had been occurring several days. Upon admission, claimant was described as a “chronically ill-looking female...(with) markedly decreased muscle mass noted.” A CT of the head performed [REDACTED] documented fairly extensive left-sided subcortical white matter hypodensity consistent with ischemic infarct in the left middle cerebral artery distribution. The radiologist provided an impression of chronic changes. It is the finding of this Administrative Law Judge that the record supports a finding that claimant met the necessary disability criteria affective May 2007. Accordingly, the undersigned must find that claimant was “disabled” for purposes of MA as of May 2007.

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 program as of May 2007.

Accordingly, the department is ordered to initiate a review of the August 24, 2007 application, if it has not already done so, to determine if all other non-medical eligibility criteria were met. The department shall inform the authorized representative of its determination in writing.

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

Date Signed: 07/30/09


Date Mailed: 07/30/09

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:

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