

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: 2008-30449

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 12, 2008

Cass County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 telephone hearing was held on December 12, 2008.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro MA-P)?

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 July 7, 2008, claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.
- (2) On August 8, 2008, the Medical Review Team denied claimant's application stating that claimant could perform other work.

(3) On August 12, 2008, the department caseworker sent claimant notice that her application was denied.

(4) On August 28, 2008, claimant filed a request for a hearing to contest the department's negative action.

(5) On September 18, 2008, the State Hearing Review Team again denied claimant's application and requested additional medical information.

(6) The hearing was held on December 12, 2008. At the hearing, claimant waived the time periods and requested to submit the additional medical information.

(7) Additional medical information was submitted and sent to the State Hearing Review Team on February 12, 2009.

(8) On March 4, 2009, the State Hearing Review Team approved claimant for Medical Assistance benefits and retroactive Medical Assistance benefits stating that she met Vocational approval under 201.00(h) and stated that the claimant is significantly limited by her weight. She is short of breath and has a gait disturbance. The consulting physician indicated that claimant medically required the use of a walker for ambulation. The claimant would be unable to do even sedentary work on a sustained basis. At medical review in March 2010 please obtain a complete physical examination by a licensed physician.

(9) Claimant is a 46-year-old woman whose birth date is [REDACTED]. Claimant is 5' 2" tall and weighs 272 pounds. Claimant recently gained 100 pounds.

(10) Claimant attended the 11th grade and has no GED. Claimant is able to read and write and does have basic math skills.

(11) Claimant last worked in the year 2000 making aluminum rods. Claimant has also worked as a machinist and as a restaurant cook and stacking and cutting wood at a wood company.

(12) Claimant alleges as disabling impairments: diabetes mellitus, obesity, arthritis, back problems, boils, asthma, sleep apnea, shortness of breath, bulging disc, psoriasis, hypertension, and gout.

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).

Because of the SHRT determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability per Program Administrative Manual, Item 600. The department is required to initiate a determination of the claimant's financial eligibility for the requested benefits if has not been previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically disabled under the Medical Assistance Program as of the July 7, 2008 application date and also for the three months retroactive period.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the July 7, 2007 Medical Assistance application and retroactive Medical Assistance application, if it has not already done so, to determine if all other non-medical eligibility criteria are met. The department shall inform the claimant of the determination in writing.

The department is also ORDERED at medical review in March 2010 to assist claimant in obtaining a complete physical examination by a licensed physician in narrative which should include the following:

1. A brief medical history including past treatment and medications prescribed;
2. Vital signs, height, weight and blood pressure;
3. Heart and lung sounds with chest pain description if applicable;
4. A brief assessment of motor function, muscle strength, sensation and deep tendon reflexes;
5. Range of motion and degrees of affected joints and spine;
6. Straight leg raises;
7. Description of gait with or without ambulatory device;
8. Description of dexterity and grip strength; and
9. An updated DHS-49.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 7, 2009

Date Mailed: April 7, 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 mailing 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.

LYL/vmc

cc:

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