

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: 2008-30718
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 22, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 January 22, 2009.

The D&O was delayed at the claimant's request for a second SHRT review of additional medical reports presented at the hearing (Claimant Exhibit A). After SHRT's second nondisability determination, the ALJ made the final decision below.

ISSUE

Was disability medically established?

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 November 29, 2007, the claimant applied for Medicaid and was denied on May 19, 2008 per PEM 260.

(2) Claimant's vocational factors are: age 43, high school education, and past semi-skilled work for [REDACTED] as a computer operator and cashier; claimant learned to operate the computer while employed in the library at the [REDACTED] for three to four years.

(3) Claimant's symptoms/complaints are: able to understand, remember and carry out simple job instructions; able to perform basic physical work activities as defined below, except when having difficulty with chronic heavy vaginal bleeding, pain in hands making it difficult to perform reaching activities, intermittent numbness in right leg, intermittent pain and weak hands, grip, and difficulty with fine manipulations.

(4) Claimant has not performed substantial gainful work since April 3, 2005.

[MENTAL IMPAIRMENT]

(5) Medical exams on [REDACTED], and [REDACTED] state the claimant has no mental limitations (Medical Packet, page 8 and Claimant Exhibit A, page 2).

PHYSICAL IMPAIRMENT

(6) Medical exam on [REDACTED] states the claimant out of an eight-hour workday can stand and/or walk less than two hours; that she can lift/carry occasionally ten pounds; that no assistive device is needed for ambulation; and that she can use her upper extremities on a repetitive basis (Medical Packet, page 8).

(7) Medical exam on [REDACTED] states the claimant has heavy vaginal bleeding and anemia since [REDACTED]; and that her condition is deteriorating; that out of an eight-hour workday, she can stand or walk less than two hours; that she can never lift or carry any weight; and that she cannot use her extremities on a repetitive basis (Claimant Exhibit A, page 2).

(8) SHRT report dated [REDACTED] states the claimant's impairment(s) does not meet/equal a Social Security Listing (Medical Packet, page 26).

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).

Facts above are undisputed.

"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.

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean 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).

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Unskilled work. Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength.... 20 CFR 416.968(a).

...For example, we consider jobs unskilled if the primary work duties are handling, feeding and off-bearing (that is, placing or removing materials from machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs. 20 CFR 416.968(a).

Semiskilled work. Semi-skilled work is work which needs some skills but does not require doing the more complex work duties. Semiskilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities which are similarly less complex than skilled work, but more complex than unskilled work. A job may be classified as semiskilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks. 20 CFR 416.968(b).

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 are ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

Claimant has the burden of proof to establish by a preponderance of the medical evidence in the record that her mental/physical impairment(s) meets the department's definition of disability for Medicaid purposes. PEM 260.

STEP #1

Because the claimant was not performing substantial gainful work on date of her Medicaid application, she meets the Step 1 eligibility test per 20 CFR 416.920(b). Therefore, the analysis continues to the next step.

STEP #2

This step determines whether the claimant, on date of application, had a severe mental/physical impairment as defined above, which had lasted or was expected to last for a continuous period of at least 12 months. 20 CFR 416.916(a) and (b). A *de minimus* standard is applied in determining severity—any ambiguities are determined in the claimant's favor.

The medical evidence stated above does support a severe physical impairment, the claimant's disabling symptoms/complaints, and the duration requirement. Therefore, Step 2 has been established. Therefore, the analysis continues to the next step.

STEP #3

This step determines whether the claimant, on date of application, meets/equals a Social Security Listing, and the duration requirement. The medical evidence stated above does not establish a Social Security Listing, and the duration requirement. Therefore, Step 3 has not been established. However, the analysis continues to the next step.

STEP #4

This step determines whether the claimant, on date of application, was without a residual functional capacity for any of her past work during the last 15 years despite her severe impairment per 20 CFR 416.920(e).

The medical evidence stated above does establish the claimant's inability to perform any of her past work, as stated above.

The claimant has medically established an ongoing heavy vaginal bleeding impairment with a deteriorating condition.

This ALJ is persuaded by the preponderance of the medical evidence that the claimant has established an inability to do any past work on a regular and continuous basis in a work setting. Therefore, Step 4 has been established. The analysis continues to the next step.

STEP #5

This step determines whether the claimant, on date of application, was without a residual functional capacity for any other work despite her severe impairment per 20 CFR 416.920(f).

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The medical evidence stated above does establish the claimant's inability to perform any type of work as already discussed under Step 4 above.

Therefore, this ALJ is persuaded that disability has been established by a preponderance of the medical evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that disability was medically established.

Accordingly, Medicaid denial is REVERSED.

Medical review suggested in [REDACTED].

/s/ _____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 16, 2009

Date Mailed: March 17, 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.

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