

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: 2008-13403

Issue No: 2009; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 5, 2008

St. Clair 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 June 5, 2008. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was no longer eligible for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

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 was receiving Medical Assistance and State Disability Assistance benefits alleging disability.

(2) Claimant's case was scheduled for a medical review in November 2007.

(3) On December 26, 2007, the Medical Review Team denied claimant's continued Medical Assistance and State Disability Assistance benefit receipt stating that claimant had medical improvement.

(4) On January 3, 2008, the department caseworker sent claimant notice that her Medical Assistance case would be cancelled effective February 12, 2008 based upon medical improvement.

(5) On February 5, 2008, claimant filed a request for a hearing to contest the department's negative action.

(6) On April 8, 2008, the State Hearing Review Team requested additional medical information stating that most of the evidence in the file is useless. There is no evidence from the original MRT approval to ascertain why the claimant was approved. There is no way to measure whether the claimant's condition has improved due to the poor quality of information in the file.

(7) Claimant was approved for Medical Assistance benefits on November 1, 2006.

(8) On date of hearing, claimant was a 44-year-old woman whose birth date was [REDACTED]. Claimant was 5' 10" tall and weighed 191 pounds. Claimant was a high school graduate and was able to read and write and did have basic math skills.

(9) Claimant last worked selling computer furniture for 15 years and also in a gas station but hadn't worked in several years on the date of hearing.

(10) The records indicate that claimant was approved originally for Medical Assistance and State Disability Assistance benefits based on Listing 5.05 which is chronic liver disease.

(11) Claimant alleged as disabling impairments: cirrhosis, hepatic encephalopathy, ascites, depression, Hepatitis C, diabetes mellitus and fluid in the back of knee.

(12) Claimant died on [REDACTED] [REDACTED]

CONCLUSIONS OF LAW

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 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 general, claimant has the responsibility to prove that he/she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's

statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Claimant's complaints and allegations concerning impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

Once an individual has been determined to be "disabled" for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work are assessed. Review may cease and benefits may be continued at any point if there is substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

First, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i).

In the instant case, because claimant is deceased and died approximately [REDACTED] months after the hearing this Administrative Law Judge will find that the department did not establish by the necessary competent, and material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant no longer met Listing 5.05 and was no longer disabled for purposes of Medical Assistance and State Disability Assistance benefits. The file was unclear as to what benefits were at issue as claimant had been eligible to receive both Medical Assistance and State Disability Assistance benefits but the State Disability Assistance benefits appear to be the only program that was in dispute. However, this Administrative Law Judge must address both issues.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not appropriately established on the record that it was acting in compliance with department policy when it denied claimant's continued eligibility for Medical Assistance and State Disability Assistance benefits. The claimant is now deceased and was entitled to continued benefits until her death. It does appear that the negative action was deleted for purposes of the hearing since claimant did request the hearing before the Medical Assistance case was scheduled to close. Therefore, claimant's Medical Assistance and State Disability Assistance benefits should be reinstated for the time period in question and claimant does meet the definition of disabled for the month in which she died. However, there is not enough information in the file to determine whether or not claimant continued to meet Medical Assistance disability eligibility for the months prior to her death as there is no information in the file concerning how she died.

Accordingly, the department's decision is REVERSED. The department shall reinstate claimant's Medical Assistance case for the month in which she died and pay any Medical Assistance benefits to which she was entitled at that time.

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

Date Signed: June 29, 2009

Date Mailed: June 30, 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:

