

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant
[REDACTED]

Reg. No: 2008-15023

Issue No: 2009;4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 18, 2008

Wayne County DHS

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 September 18, 2008. Personal representative [REDACTED]. Following the hearing, the record was kept open for the 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 was not "disabled" for purposes of Medical Assistance (MA-P) and State Disability Assistance (SDA) program benefits?

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 September 10, 2007, an application was filed on claimant's behalf for MA-P and SDA benefits. The application requested MA-P retroactive to June of 2007.

(2) On November 15, 2007, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.

(3) On February 12, 2008, a hearing request was filed to protest the department's determination.

(4) On June 2, 2007, claimant suffered a traumatic subdural hematoma with depressed skull fracture. He underwent evacuation of the hematoma and bone removal.

(5) On February 4, 2008, claimant was found unresponsive with fixed pupils in "a drug house in Detroit." Despite initiation of advanced cardiac live support protocol, claimant passed away. His cause of death was dilated cardiomyopathy with a contributing factor of fatty liver.

(6) Claimant's February 4, 2008 cause of death was unrelated to any injury incurred on June 2, 2007.

(7) The allegations concerning claimant's impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, does not reflect an individual who was so impaired as to be incapable of engaging in any substantial gainful activity for a continuous period of not less than 12 months.

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). Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“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

In general, claimant’s personal representative has the responsibility to establish that claimant was 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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not

disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the record does not indicate claimant's work status from June of 2007 until his death on February 4, 2008. For purposes of this analysis, it will be assumed that claimant was not working.

Secondly, the trier of fact must determine if claimant had a severe impairment which met the durational requirement. Unless an impairment is expected to result in death, it must have lasted or be expected to last for a continuous period of at least 12 months. 20 CFR 416.909. In this case, claimant suffered a traumatic subdural hematoma on June 2, 2007 with depressed skull fracture. He underwent evacuation of hematoma and bone removal. On February 4, 2008, claimant died. His cause of death was unrelated to his June 2, 2007 injuries. There is nothing in the hearing record to suggest that any of the limitations incurred from claimant's June 2, 2007 injuries resulted or were expected to result in the inability to perform any substantial gainful activity for a continuous period of not less than 12 months. The record has failed to establish that claimant had an impairment which prevented substantial gainful activity for the 12 month durational requirement. Accordingly, the undersigned finds that the department properly determined that claimant was not eligible for MA based upon disability.

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).

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in PEM Item 261. In this case, there is insufficient medical evidence to support a finding that claimant was incapacitated or unable to work under SSI disability standards for at least 90 days. Therefore, the undersigned concludes that claimant was not disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant was not “disabled” for purposes of the Medical Assistance and State Disability Assistance programs.

Accordingly, the department’s determination in this matter is hereby **AFFIRMED**.

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

Date Signed: 01/06/09

Date Mailed: 01/09/09

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

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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.

LSS/vmc

cc:

