

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2008-16087

Issue No.: 2009

Case No.:

Load No.:

Hearing Date:

June 11, 2008

Iron County DHS

ADMINISTRATIVE LAW JUDGE: Judith Ralston Ellison

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, the Claimant appeared at a hearing held on June 11, 2008 at the Department of Human Service (Department) in Iron County.

The closing date was waived. Additional medical records were reviewed by the State Hearing Review Team (SHRT) who denied the application. The matter is now before the undersigned for final decision.

ISSUES

Whether the Department properly determined the Claimant is "not disabled" for purposes of Medical Assistance based on disability (MA-P) and retroactive MA-P for the month of January 2008 program?

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 February 6, 2008 the Claimant applied for MA-P.

- (2) On March 7, 2008 the Department denied the application; and on March 13, 2009 SHRT denied the application finding the medical records showed a non-severe impairment per 20 CFR 416.920(c).
- (3) On March 19, 2008 the Claimant filed a timely hearing request to protest the Department's determination.
- (4) Claimant's date of birth is [REDACTED]; and the Claimant is sixty years of age.
- (5) Claimant completed grade 12; and can read and write English and perform basic math
- (6) Claimant last worked in 2004 as a secretary, a restaurant cook for 12 years and worked in a nursing home laundry.
- (7) Claimant has alleged a medical history of chest pain with hospitalization, left leg bruising and swelling, two fainting spells within one month, hypertension and coughing.
- (8) January 2008, in part:

Presented to hospital with C/O dizziness, headaches, elevated blood pressure, burning in pelvic region. Blood pressure on admission was 253/118. No previous medical history.

PHYSICAL EXAMINATION: General, HEENT, Lungs, Cardiovascular, Abdomen, Extremities, And Neurologic: [All within normal limits.] IMPRESSION: new onset hypertension and given labetalol and Vasotec in ER and began to decrease but not under control. Will follow cardiac and enzymes with CT scan head. UA for pelvic burning. [REDACTED]

D-dimer was negative. Head CT was negative. Cardiac enzymes did not elevate but developed inferolateral ST-T wave inversion. Being transferred to [REDACTED]. Medications: Coreg, Aspirin, Nitroglycerin paste, Morphine. On bedrest. [REDACTED].

Cardiac Cauterization: SUMMARY: Slightly elevated left ventricular end diastolic pressure at 15 to 16. No gradient across the aortic valve. Normal left ventricular systolic function is 65%. Normal coronary arteries. Normal bilateral renal arteriography. [REDACTED] Department Exhibit (DE) 1. pp 25-31.

(9) February 2008, in part:

CURRENT DIAGNOSIS: Chest wall and back pain, hypertension, stress incontinence, GERD, obesity.

HT: 64", WT: 184.8, BP 146/94.

NORMAL EXAMINATION AREAS: General; HEENT, Respiratory; Musculoskeletal, Neuro, Mental.

FINDINGS: Cardiovascular: chest wall pain left costochondrial margin; other wise normal. Abdomen: LUQ tenderness with palpation, obese, negative for organomegaly, other wise normal

CLINICAL IMPRESSION: Stable.

PHYSICAL LIMITATIONS: Limited but not expected to last 90 days or over. Lifting/carrying up to 20 pounds 2/3 of 8 hour day; never 50 pounds; assistive devices are not medically needed; use of both hand/arms for simple grasping, reaching, pushing/pulling, fine manipulating; use of both feet/legs for operating controls. Can meet own need in home.

MENTAL LIMITATIONS: None. Medications: Premarin, Norvasc, lisinopril, Nexium, Celebrex [REDACTED] Co-signed [Illegible] DE 1, pp. 12-20.

(10) July 2008, in part:

Independent Clinical Examination: HISTORY: Checks blood pressure at home and still runs 170/70. C/O of fatigue and chest discomfort radiating to left arm and leg. Stopped working to take care of her disabled husband. Independent in ADLs, able to drive, enjoys gardening and watches a grandson. Denies problems sitting, standing or walking except occasional leg cramp. Can lift 30 pounds on occasion.

PHYSICAL EXAMINATION: Appearance/Mental status, Vital signs, Skin, Eyes/Ears, Neck, Chest, Heart, Abdomen, Vascular, Musculoskeletal, Neuro: [All within normal limits.] Except BP 198/88. FINDINGS: diastolic dysfunction and chest pain may be related to this. Medications are not controlling blood pressure well and should be re-evaluated. With high blood pressure she runs the risk for developing intercerebral hemorrhage or cardiac events. Remedial with aggressive anti-hypertensive control. [REDACTED] De N, pp. 1-3.

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 400.1 *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 CFR416.905

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 impairment(s); residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. A determination that an individual is disabled can be made at any step in the sequential evaluation. Then 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 (SGA). 20 CFR 416.920(b). In this case, under the first step, Claimant testified to not performing SGA since 2004. Thus, the Claimant is not disqualified for MA at step one in the evaluation process.

Second, in order to be considered disabled for purposes of MA, a person must have a “severe impairment” 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities mean the abilities and aptitudes necessary to do most jobs. Examples 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)

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. The court in *Salmi v Sec’y of Health and Human Servs*, 774 F2d 685 (6<sup>th</sup> Cir 1985) held that an impairment qualifies as “non-severe” only if it “would not affect the claimant’s ability to work,” “regardless of the claimant’s age, education, or prior work experience.” *Id.* At 691-92. Only slight abnormalities that minimally affect a claimant’s ability to work can be considered non-severe. *Higgs v Bowen*, 880 F2d 860, 862 (6<sup>th</sup> Cir. 1988); *Farris v Sec’y of Health & Human Servs*, 773 F2d 85, 90 (6<sup>th</sup> Cir 1985).

In this case, the Claimant has presented medical evidence of uncontrolled hypertension which was causing headaches. But there was no medical records establishing that the hypertension has damaged her heart, brain, eyes or kidneys. The medical records do not establish any other physical or mental impairment.

Based on lack of medical evidence that the Claimant is unable to perform basic work activities, the undersigned finds the Claimant condition is not severe within the meaning of 20 CFR

416.920(c). Further, the Claimant testified she could return to past relevant work as a secretary except for the need to care for her husband. Unfortunately, this is not sufficient under the law and does not establish disability under the law.

Your impairment(s) must be severe and meet the duration requirement before we can find you to be disabled. You must have a severe impairment. If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further. 20 CFR 916.920a (5) (c).

It is the finding of the undersigned, based upon the medical data and hearing record, that the Claimant is “not disabled” at step two because the Claimant does not have medical documentation of physical or mental impairments that are severe enough to prevent basic work activities; further review of the claim is not necessary.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law, decides that the Claimant is “not disabled” for purposes of the Medical Assistance based on disability programs.

It is ORDERED; the Department’s determination in this matter is AFFIRMED.

/s/  
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Judith Ralston Ellison  
Administrative Law Judge  
For Ishmael Ahmed, Director  
Department of Human Services

Date Signed: 03/27/09

Date Mailed: 03/27/09

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 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.

JRE/jlg

cc:

