

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.: 2008-26894
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
November 10, 2008
Kent 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 November 10, 2008. Claimant appeared and testified. Following the hearing, the record was kept open for the receipt of additional medical evidence. No additional documentation was submitted.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) 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 21, 2008, claimant filed an application for MA-P benefits. Claimant requested MA-P retroactive to January of 2008.

- 2) On May 9, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- 3) On July 21, 2008, claimant filed a hearing request to protest the department's determination.
- 4) Claimant, age 34, has a high-school education.
- 5) Claimant last worked in November of 2007 as an automotive assembly line worker. Claimant has also performed relevant work as a nurse's aide, construction worker, and fence builder. Claimant's relevant work history consists exclusively of unskilled work activities.
- 6) Claimant has a history of left knee arthroscopic surgery and tobacco abuse.
- 7) Claimant received emergency room treatment on [REDACTED], for left shoulder pain. Claimant was diagnosed with left shoulder strain and was treated with medication.
- 8) Claimant sought emergency room treatment on [REDACTED], for aching left-sided back pain. Claimant was treated with medication and released.
- 9) Claimant received emergency room treatment on [REDACTED], for low back pain. He was diagnosed with acute-on-chronic low back pain, treated with medication, and released.
- 10) Claimant was hospitalized [REDACTED] for a non-ST elevation myocardial infarction. He underwent heart catheterization and it was discovered that the LAD had a 99% mid vessel stenosis. There was no other significant disease. Claimant was transferred to the [REDACTED] and

underwent a percutaneous intervention on [REDACTED], with stent placement to the LAD with good angiographic result and 0% residual stenosis.

- 11) Claimant has had no further hospitalization.
- 12) At the hearing, claimant complained of low back pain with bilateral radiculopathy and occasional tightness in the chest.
- 13) Claimant is a recipient of the Adult Medical Program and has access to doctor visits and prescriptions.
- 14) Claimant has not had a continuous period of twelve months or more in which he has been incapable of performing any substantial gainful activity.

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 has the responsibility to prove that he 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.

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, claimant is not working. Therefore, claimant may not be eliminated for MA at this step in the sequential evaluation process.

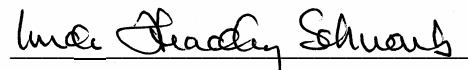
Secondly, the trier of fact must determine if claimant has a severe impairment which meets the durational requirement. Unless an impairment is expected to result in death, it must have lasted or be expected to last for a continuous period of at least twelve months. 20 CFR

416.909. In this case, claimant reportedly suffered a fall in [REDACTED] and thereafter developed low back pain. Claimant had emergency room treatment on [REDACTED] for left shoulder pain. He was treated with medication and discharged. On [REDACTED], claimant sought emergency room treatment of aching left-sided back pain. He was diagnosed with back pain, treated with medication, and released. On [REDACTED], claimant again sought emergency room treatment for low back pain. He was diagnosed with acute-on-chronic low back pain. Claimant was treated with medication and released. Claimant was re-hospitalized [REDACTED] for chest pain. He was diagnosed with non-ST elevation myocardial infarction. He underwent a heart catheterization which diagnosed a 99% mid-vessel stenosis at the LAD. He underwent percutaneous intervention on [REDACTED] with stent placement resulting in a good angiographic result and 0% residual stenosis. Thereafter, claimant had no further hospitalizations. A DHS-49 Medical Examination Report, completed by his family physician on [REDACTED], diagnosed claimant with low back pain. The physician indicated that claimant was capable of occasionally lifting up to twenty pounds as well as capable of standing or walking at least two hours in an eight-hour work day. The physician indicated that claimant was capable of repetitive activities with the upper and lower extremities and had no mental limitations. At the hearing on November 10, 2008, claimant testified that he continued to experience low back pain and occasional chest tightness. Despite being provided an opportunity to submit additional medical evidence, claimant failed to provide any additional medical documentation. Claimant testified that he is capable of walking for ten minutes, standing for ten minutes, sitting for one hour, and lifting ten pounds. Claimant has failed to present the required medical data and evidence necessary to support a finding that he has an impairment which prevents any substantial gainful activity for the twelve-month

durational requirement. There is nothing in the hearing record to support a suggestion that claimant's limitations have or will result in the inability to any substantial gainful activity for a continuous period of not less than twelve months. Accordingly, the undersigned must find that the department properly determined that claimant is not "disabled" for purposes of MA. Even if claimant were found to have an ongoing severe impairment which hindered his ability to perform his past work activities, the record would certainly support a finding that claimant is capable of sedentary or light work activities. See Med Voc Rule 202.20 and 201.27. Accordingly, the department's determination in this matter must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not "disabled" for purposes of the Medical Assistance program. Accordingly, the department's decision in this matter is hereby affirmed.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2010

Date Mailed: February 3, 2010

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.

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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/pf

cc:

