

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: 2008-27346  
Issue No: 2009  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 28, 2009  
Ottawa 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, an in-person hearing was held on April 28, 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 Exhibits A and B). After SHRT's second nondisability determination, the ALJ made the following decision below.

ISSUE

Was disability medically established?

FINDINGS OF FACT

The Administrative Law Judge finds the below material/undisputed facts regarding the claimant:

- (1) Medicaid application on April 17, 2008 was denied on June 6, 2008 per PEM 260.
- (2) Age: [REDACTED].

(3) Disabling symptoms/complaints: Chronic pelvic pain, worsening after sitting 10 minutes, standing 10 to 20 minutes, walking 5 minutes; pain, tingling sensation, and numbness in wrists; chronic headache for past three years; chronic pain in right side of face radiating from under eye to jaw; and intermittent pain radiating down from right buttocks to right ankle.

(4) Substantial gainful work: none during the last 15 years.

(5) Medical reports of exams:

**[Physical Impairment Only]**

- (a) Report dated [REDACTED] states the claimant at this point that there is no way she can hold a job (Medical Packet, page 79).
- (b) Report dated [REDACTED] states the claimant is severely restricted in her ability to work because of pain issues (Claimant Exhibit A, page 1).

**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).

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

**The burden of proof is on the claimant** to establish by a preponderance of the medical evidence that she has established Medicaid disability, as defined above. PEM 260.

**Step 1: Current work activity.**

The claimant was not working on date of application or currently. Therefore, Step 1 is established. Therefore the sequential evaluation process continues to Step 2.

**Step #2: Impairment, Severity/Duration.**

This step determines whether the claimant, on date of application, had a severe physical impairment as defined above, which has 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 above medicals do not establish that the claimant is significantly limited in performing basic physical work activities, as defined above, nor support her disabling symptoms/complaints, stated above.

The above medical conclusions that the claimant is unable to work are not supported by the objective medical evidence in the record. The medicals in this case are diagnostic/treatment reports and do not address the claimant's physical limitations in order to determine whether she had a severe physical impairment, as defined above, on date of application which had satisfied the duration requirement.

Therefore, this ALJ is not persuaded that disability has been established by the 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 physical disability was not medically established.

Accordingly, Medicaid denial is UPHELD.

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

Date Signed: June 11, 2009

Date Mailed: June 11, 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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WAS/tg

cc:

