

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: 2008-28325

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 12, 2008

Kalamazoo 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 12, 2008. Claimant appeared and testified. 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 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 June 24, 2008, claimant filed an application for MA-P and State Disability Assistance (SDA) benefits. Claimant requested MA-P retroactive to May of 2008.

(2) On July 31, 2008, the department approved SDA but denied MA-P benefits based upon the belief that claimant was not likely to meet the necessary duration of disability.

(3) On August 7, 2008, claimant filed a hearing request to protest the department's denial of her application for MA-P benefits.

(4) Claimant, age 25, has a high school education.

(5) Claimant has a history of drug abuse, reportedly in remission.

(6) On approximately May 28, 2008, claimant began to develop symptoms of numbness and weakness. Claimant's condition deteriorated and she was eventually diagnosed with Guillain-Barre Syndrome.

(7) While hospitalized, claimant experienced symptoms of numbness, slurred speech, facial numbness, and progressive weakness of the arms, legs, and face. At discharge, claimant was initially non-ambulatory.

(8) Claimant has a diagnosis of Guillain-Barre syndrome with post-Guillain-Barre syndrome. She has made slow improvement and is now ambulatory.

(9) As of September 5, 2008, claimant's treating neurologist [REDACTED] indicated that claimant had mild weakness of the lower extremities, and left facial weakness with aching of her legs. The treating neurologist indicated that claimant was slowly improving.

(10) 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, do not reflect an individual who is 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 has the responsibility to prove that 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.

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 from MA at this step in the sequential evaluation process.

Secondly, the trier of fact must determine if claimant has a severe impairment which meets or can be expected to meet the required durational period. 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 developed Guillain-Barre syndrome in late May of 2008. Following periods of hospitalization and rehabilitation, claimant has returned to the community where she has been making progress in her rehabilitation. On September 5, 2008, claimant's treating neurologist [REDACTED] indicated that claimant was experiencing post-Guillain-Barre syndrome. Upon examination at that time, [REDACTED] reported that claimant had "some mild weakness in the lower extremities, more left facial weakness with aching of her legs." [REDACTED] noted that claimant was slowly improving. She was encouraged to continue her home exercise program on a stationary bike and perhaps engage in water exercises. The hearing record does not support a finding that claimant has limitations which were expected to result in the inability to do any substantial gainful activity for a continuous period of not less than 12 months. The medical data and evidence does not support a finding that claimant's impairment(s) will prevent any substantial gainful activity for the

required durational period. Accordingly, the undersigned must find that the department has properly determined that claimant is not eligible for MA based upon disability.

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 is not “disabled” for purposes of the Medical Assistance program.

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: 6/2/09

Date Mailed: 6/5/09

**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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

LSS/cv

cc:

