

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.: 2008-29247

Issue No.: 2009

Case No.: ██████████

Load No.: ██████████

Hearing Date:

October 29, 2008

Wayne County DHS (73)

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 October 29, 2008. The claimant appeared and testified. The claimant was represented by ██████████. Following the hearing, the record was kept open for receipt of additional medical evidence. No additional documents were 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 April 1, 2008, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to February 2008.

- (2) On May 14, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- (3) On August 7, 2008, a hearing request was filed to protest the department's determination.
- (4) At the time of the hearing, claimant was receiving ongoing State Disability Assistance benefits based upon on active participation in the Michigan Rehabilitative Services program.
- (5) Claimant, age 50, has a 7th grade education.
- (6) Claimant last worked in 2006 as a janitor. Claimant's relevant work history consists exclusively of unskilled work activities.
- (7) Claimant was hospitalized [REDACTED] through [REDACTED]. He was diagnosed with Human Immunodeficiency Virus (HIV) disease. Secondary diagnosis included sepsis, candidiasis of the mouth, pneumonia, pneumococcal septicemia, and dehydration.
- (8) Despite efforts from claimant's authorized representative and the department, no additional medical records were submitted other than the hospital records from February 2008.
- (9) Claimant has not had, nor is he expected to have, a continuous period of 12 months or more in which he has been incapable of 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, the 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.

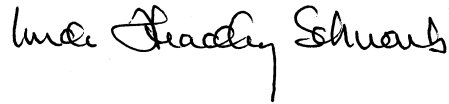
First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, claimant is not working. Therefore, claimant may not be disqualified for MA at this step in the sequential evaluation process.

Secondly, the trier of fact must determine if claimant has a severe impairment which meets the durational requirement. Unless an impairment is expected to resolve in death, it must have last or be expected to last for a continuous period of at least 12 months. See 20 CFR 416.909. In this case, claimant was hospitalized in February 2008. He had a new diagnosis of HIV. Thereafter, despite efforts from claimant's authorized representative and the department, no additional medical documentation was obtained or submitted for consideration. There is nothing in the record to suggest that claimant's limitations have or will resolve in the inability to do any substantial gainful activity for a continuous period of not less than 12 months. 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 12 month durational requirement. Accordingly, the undersigned finds 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 claimant is not "disabled" for purposes the Medical Assistance Program.

Accordingly, the department's determination in this matter is HEREBY, AFFIRMED.



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

Date Signed: 10/21/09

Date Mailed: 10/21/09

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 the Circuit 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.

LSS/jlg

cc:

