

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.: 2008-31264
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 16, 2009
Wayne County DHS (82)

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 March 16, 2009. The claimant appeared and testified. The claimant was represented by [REDACTED]. Following the hearing, the record was kept open for 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 20, 2008, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to May 2008.

- (2) On July 25, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- (3) On September 9, 2008, a hearing request was filed to protest the department's determination.
- (4) Claimant, age 49, has a high school education and some college.
- (5) Claimant last worked in 1998 as a quality and training manager.
- (6) Claimant has a history of a kidney transplant in May 1993.
- (7) Claimant was hospitalized [REDACTED] through [REDACTED] when, during an outpatient office visit, an echocardiogram revealed a pericardial effusion without evidence of cardiac tamponade. He was sent for direct admission into the hospital and to the cardiac cath lab for pericardiocentesis. His recovery was uneventful and he was discharged home.
- (8) Claimant suffers from hypertension, coronary artery disease, hypertrophic cardiomyopathy, chronic kidney disease-post transplantation, and sleep apnea.
- (9) Claimant has limitations upon his ability to walk and stand for prolonged periods of time and lift extremely heavy objects. Claimant's limitations have lasted for 12 months or more.
- (10) Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who has the physical and mental capacity to engage in past work activities as well as other light work activities on a regular and continuing basis.

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, 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 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).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

In this case, claimant has presented the required medical data and evidence necessary to support a finding that claimant has significant physical limitations upon claimant’s ability to perform basic work activities such as walking and standing for prolonged periods of time and lifting heavy objects. Medical evidence has clearly established that claimant has an impairment (or combination of impairments) that has more than a minimal effect on claimant’s work activities. See Social Security Rulings 85-28, 88-13, and 82-63.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant’s impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the claimant’s medical record will not support a finding that claimant’s impairment(s) is a “listed impairment” or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant’s impairment(s) prevents claimant from doing past relevant work.

20 CFR 416.920(e). In this matter, claimant has a history of chronic kidney disease. He underwent a kidney transplant in 1993. In May 2008, while on an outpatient office visit with his doctor, an echocardiogram revealed a pericardial effusion without evidence of cardiac tamponade. Claimant was sent to a hospital for direct admission and to the cardiac cath lab for pericardiocentesis. His recovery from surgery was uneventful and he was discharged home. The record indicates that claimant has had no further hospitalizations. On [REDACTED], claimant's treating nephrologist diagnosed claimant with chronic kidney disease, history of severe hypertension, sleep apnea, kidney transplant, and recent pericardial effusion. The nephrologist indicated that claimant had chronic medical conditions but gave him no physical or mental limitations. On [REDACTED], claimant's primary care physician diagnosed claimant with chronic kidney disease, history of severe hypertension, sleep apnea, and kidney transplant. The treating physician gave claimant no physical or mental limitations. On [REDACTED], claimant's treating cardiologist diagnosed claimant with coronary artery disease and hypertrophic cardiomyopathy. The cardiologist indicated that claimant was capable of occasionally lifting up to 20 lbs as well as capable of standing and walking at least 2 hours in an 8 hour work day. The cardiologist indicated that claimant was capable of repetitive activities with the bilateral upper extremities. No further limitations were given. It is the finding of this Administrative Law Judge, based upon the medical evidence and objective, physical and psychological findings, that claimant is capable of his past work as a quality and training manager. Accordingly, claimant can not be found disabled for purposes of the MA program. Further, the record supports a finding that claimant is capable of performing light work activities on a regular and continuing basis. See Appendix 1 of Subpart P of 20 CFR, Part 404, Table 2,

Rule 202.20. Also see Med Voc Rule 201.20. 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 the Department of Human Services properly determined that claimant is not "disabled" for purposes of the Medical Assistance program.

Accordingly, the department's decision in this matter must be AFFIRMED.

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

Date Signed: 08/04/09

Date Mailed: 08/06/09

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 recip date of the rehearing decision.

LSS/jlg

cc:

