

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: 2009-1378
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2009
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 telephone hearing was held on February 10, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro MA-P)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was a Medical Assistance benefit recipient.
- (2) Claimant's case was scheduled for medical review in August 2008.
- (3) On August 4, 2008, claimant filed a new application for Medical Assistance benefits alleging disability.

(4) On September 18, 2008, the Medical Review Team denied claimant's application stating that claimant could perform her prior work.

(5) On September 22, 2008, the department caseworker sent claimant notice that her application for Medical Assistance based upon disability was denied and opened a Medical Assistance case based upon being a caretaker relative.

(6) On September 25, 2008 claimant filed a request for a hearing to contest the department's negative action.

(7) On October 20, 2008, the State Hearing Review Team again denied claimant's application stating that claimant was capable of performing her past work in sales.

(8) The hearing was held on February 10, 2009. At the hearing, claimant waived the time periods and requested to submit additional medical information.

(9) Additional medical information was submitted and sent to the State Hearing Review Team for further review on February 10, 2009.

(10) On February 24, 2009, the State Hearing Review Team approved claimant's Medical Assistance benefits based upon disability stating that claimant meets or equals Listing 5.01 and stated in its comments: familial adenomatous polyposis (Gardener's Syndrome) (FAP) is an inherited disorder characterized by cancer of the large intestine (colon and rectum). People with a classic type of familial adenomatous polyposis may begin to develop multiple non-cancerous (benign) growths (polyps in the colon as early as age 15). Unless the colon is removed, these polyps will become malignant (cancerous). The average age at which an individual develops colon cancer in classic FAP is 39 years. Retro MA-P was considered and is approved July 2008. A medical review of February 2011 is recommended. The claimant is post-post kidney transplant with hydronephrosis of the remaining original kidney and creatinine level

slightly elevated. She is known to have large abdominal masses. She also has had a total colectomy and is bound to have numerous polyps and masses in the upper GI on perianal exam.

(11) Claimant is a 36-year-old woman whose birth date is [REDACTED]. Claimant is 5' tall and weighs 170 pounds. Claimant is a high school graduate and is able to read and write and does have basic math skills.

(12) Claimant last worked in 1995 as a sales representative. Claimant also was in the military for two years and receives [REDACTED] in the amount of [REDACTED] per month.

(13) Claimant alleges as disabling impairments: Gardener's Syndrome and kidney transplant.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

Because of the SHRT determination it is not necessary for the Administrative Law Judge to discuss the issue of disability per PAM, Item 600. The department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically disabled under the Medical Assistance program and the State Disability Assistance program. Claimant meets the definition of disabled for the Medical Assistance program as of the retroactive date of July 2008.

Accordingly, the department's decision is REVERSED.

The department is ORDERED to initiate a review of the August 4, 2008 application, if it has not already done so, to determine if all other non-medical eligibility criteria are met. The department shall inform the claimant of the determination in writing.

The department is also ORDERED to conduct a medical review in February 2011. At that time, the department shall assist claimant in gathering all updated medical information including a complete physical examination and updates on her Gardener's Syndrome and kidney transplant.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 19, 2009

Date Mailed: March 20, 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 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.

LYL/vmc

cc:

