

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: 2009-23809  
Issue No: 2009  
Case No. [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 16, 2009  
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra Wright

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 July 16, 2009. Claimant personally appeared and testified. An eligibility specialist and a family independence manager represented the Department.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA) and retroactive MA?

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 applied for Medicaid (MA-P) and retroactive MA-P on January 6, 2009.
- (2) The Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for MA due to lack of duration.

- (3) Claimant was 48 years old with a birth date of [REDACTED] at the time of the hearing. Claimant is 5'9" and weighs 260 pounds. He is right hand dominant. Claimant completed high school. Claimant has a history of unskilled work in the fast food industry, in culinary arts and as an assembly worker in factories. Currently, Claimant is not employed. He was last employed at a [REDACTED] restaurant in March 2008.
- (4) In [REDACTED], Claimant suffered a mild heart attack. Claimant also was diagnosed with diabetes and hypertension in [REDACTED]. In [REDACTED], he suffered a stroke that left him weakened on the right side of his body such that he is no longer able to walk without the assistance of a cane. Claimant has been prescribed physical therapy but has been unable to receive treatment because he does not have insurance that covers such therapy. In addition, Claimant has been prescribed several medications to treat his hypertension and diabetes, including Toprol XL, Norvasc, and Lisinopril.
- (5) On or about [REDACTED], Claimant went to [REDACTED] in [REDACTED] due to a severe headache caused by hypertension. His elevated blood pressure was the result of being unable to get his hypertension.
- (6) Claimant does not smoke, drink or use drugs.
- (7) Claimant lives with friends.
- (8) Generally, Claimant can perform his personal needs, except that everything takes longer because his mobility depends on the assistance of a cane.
- (9) The only housework that Claimant can perform is washing some dishes. He cannot sweep, mop or vacuum. He can only shop for groceries if he has the

assistance of a motorized combination chair and cart. Claimant is unable to stand longer than about five minutes. In addition, he cannot lift more than 30 pounds.

- (10) The Medical Review Team denied Claimant's application on April 6, 2009. The State Hearing Review Team denied Claimant's application on June 11, 2009 on the grounds that his condition "is not expected to last longer than 12 months."
- (11) The Department received Claimant's hearing request on April 10, 2009.

#### 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program, Under SSI, disability is defined as:

. . .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

Pursuant to 20 CFR 416.920 a five step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point no further review is made.

The first step is to determine if an individual is working and if that work is “substantial gainful activity” (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b). In this case, Claimant is not employed. He last worked in [REDACTED] of [REDACTED].

Secondly, the individual must have an impairment that must have lasted or must be expected to last for a continuous period of at least 12 months. This is the “durational requirement.” 20 CFR 416.909. In this case, Claimant’s condition – hypertension, diabetes, and weakness on his right side from a stroke – can be expected to last longer than 12 months.

The third step in the process is to assess whether the impairment or combination of impairments significantly limits an individual’s physical or mental ability to perform basic work activities. If these abilities are not significantly limited, an individual does not have a severe impairment and is therefore not disabled. 20 CFR 416.920(c). In this case, the Claimant’s impairment significantly limits his physical ability to perform basic work activities because his mobility is impaired. Claimant can not walk without assistive devices and is in need of physical therapy. In addition, he is unable to stand for longer than about five minutes.

In the fourth step of the process the social security listing in appendix 1 is used. If the impairment or combination of impairments meet or is the medically equivalent of a listed impairment as set forth in Appendix 1, the individual is considered disabled. If not, vocational factors are considered. 20 CFR 416.920(d). In the instant case, Claimant’s combined impairment is the medical equivalent of a listed impairment under Part 404, Subpart P. Listing of Impairments. 11.04 Central nervous system vascular accident. In this case, Claimant meets the requirements for this impairment because he has “significant and persistent” motor function impairment on his right side that affects his right arm, hand and leg, that prevents his walking without a cane, lifting and grasping or carrying items.

In the fifth step an individual's residual functional capacity (RFC) is considered in determining whether disability exists. Part 404, Subpart P, App. 2. An individual's age, education, work experience and skills are use to evaluated whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e). In the present case, it was not necessary to proceed to the fifth step of the analysis because Claimant's impairment is the equivalent of a listed impairment under 20 CFR 416.920(c). Therefore, it is found that Claimant qualifies for MA and retroactive MA based on disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant meets the definition of medically disabled under the MA and SDA programs as of his application on January 6, 2009. Retroactive MA is also applicable to December 6, 2009.

Accordingly, the Department's determination is REVERSED.

The Department is ORDERED to initiate a review of the January 6, 2009 application to determine if all other non-medical eligibility criteria are met. The Department shall inform Claimant and his representative, if any, of its determination in writing. Assuming Claimant is otherwise eligible for program benefits, the Department shall review Claimant's continued eligibility in July 2010.

/s/ \_\_\_\_\_  
Tyra L. Wright  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 08/20/09

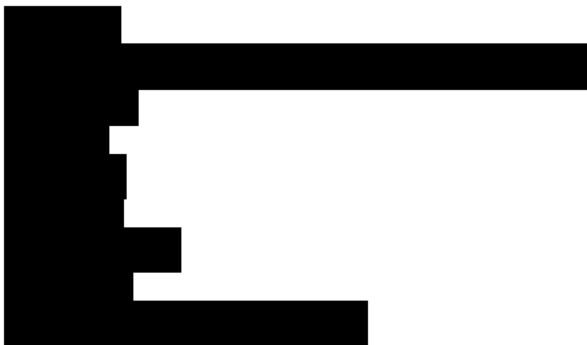
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**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or 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.

TW/dj

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