

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: 2009-32701
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 7, 2009
Wayne 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 October 7, 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) On May 19, 2009, claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.

(2) On May 28, 2009, the Medical Review Team denied claimant's application stating that claimant could perform other work.

(3) On June 2, 2009, the department caseworker sent claimant notice that her application was denied.

(4) On July 10, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On August 25, 2009, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: The claimant was admitted in [REDACTED] and had removal of a benign ovarian cyst. She has pulmonary restrictive disease due to her obesity. She had pulmonary hypertension and congestive heart failure which were improving with treatment. The medical evidence of record indicates that the claimant's condition is improving or is expected to improve within 12 months from the date of onset or from the date of surgery. Therefore, MA-P is denied due to lack of duration under 20 CFR 416.909. Retroactive MA-P was considered in this case and is also denied.

(6) The hearing was held on October 7, 2009. At the hearing, claimant waived the time periods and requested to submit additional medical information.

(7) Additional medical information was submitted and sent to the State Hearing Review Team on October 7, 2009.

(8) On October 9, 2009, the State Hearing Review Team approved claimant from Medical Assistance and retroactive Medical Assistance benefits stating in its analysis and recommendation: The claimant has severe pulmonary hypertension. The medical evidence sufficiently demonstrates that the intent and severity of Listing 3.09A is met. MA-P is approved. Retroactive MA-P was considered in this case and is approved effective February 2009. The Disability Determination Service physician has recommended an approval on this claim. At this point, the claimant has not been put into payment status as the claim is still being processed.

However, it is anticipated that she would be placed into payment status. At the review October 2010, please check to see if the claimant is in current payment status or not with the Social Security Administration. If the claimant is in current payment status at the medical review, no further action will be necessary. However, if the claimant is not in current payment status at the medical review, please obtain updated application forms (DHS-49 forms) and obtain updated medical records.

(9) Claimant is a 40-year-old woman whose birth date is [REDACTED]. Claimant is 5' 7" tall and weighs 312 pounds. Claimant is a high school graduate and is able to read and write and does have basic math skills.

(10) Claimant last worked May 5, 2009 as a home healthcare aid. Claimant has also worked in a factory and doing housekeeping and as a nurse's aid.

(11) Claimant alleges as disabling impairments: diabetes mellitus, hypertension, shortness of breath, ovarian cyst, congestive heart failure, heart arrhythmia, chest pain, dizziness, and poor balance.

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).

Because of the SHRT determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability, per Program Administrative Manual, 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 as of February 2009.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the May 19, 2009 Medical Assistance benefit application and the retroactive Medical Assistance benefit 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 and shall do a medical review in accordance with the State Hearing Review Team's request.

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

Date Signed: October 20, 2009

Date Mailed: October 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.

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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:

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