

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED], Deceased  
By [REDACTED],  
Special Personal  
Representative of the  
Estate

Reg. No.: 2009-1041  
Issue No.: 2009  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
December 15, 2008  
Wayne County DHS (57)

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 December 15, 2008. [REDACTED] erritsen appeared on behalf of [REDACTED], special personal representative of decedent's estate. 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" from October 2007 through May 2008?

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 January 18, 2008, an application was filed on claimant's behalf for MA-P benefits.

The application requested MA-P retroactive to October 2007.

- (2) On June 23, 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 16, 2008, a hearing request was filed to protest the department's determination.
- (4) Thereafter, based upon a June 24, 2008 application, the department opened MA-P for claimant effective June 1, 2008.
- (5) On [REDACTED], at the age of 45, claimant passed away. Her death certificate indicated sepsis as the cause of death due to or as a consequence of pneumonia, ventilator dependent respiratory failure, and anoxic encephalopathy.
- (6) At the hearing, the parties concurred that the matter in dispute was whether or not claimant was "disabled" for purposes of MA from October 2007 through May 2008.
- (7) Claimant had been hospitalized [REDACTED] through [REDACTED] as a result of asthma exacerbation, hospital acquired pneumonia, and vocal cord laceration and edema.
- (8) Claimant was rehospitalized [REDACTED] through [REDACTED]. Her discharged diagnosis was asthma exacerbation.
- (9) Claimant was hospitalized [REDACTED] through [REDACTED] as a result of cavitary pneumonia and chronic obstructive pulmonary disease exacerbation.
- (10) Claimant was disabled from October 2007 through May 2008.

#### 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).

In this matter, the department opened MA-P for claimant effective June 1, 2008. Consequently, the undersigned Administrative Law Judge need only consider claimant's disability for the period of October 2007 through May 2008. Claimant had an ongoing history of asthma with multiple intubations, essential hypertension, and polysubstance abuse. She was hospitalized throughout most of October 2007 as a result of asthma exacerbation. She deteriorated from a respiratory standpoint and required intubation. She had several failed attempts to wean her from intubation. Following extubation she remained hypoxemic. Claimant was rehospitalized in late December 2007 for asthma exacerbation. Claimant was again hospitalized in March 2008 for cavitary pneumonia and chronic obstructive pulmonary disease exacerbation. It is the finding of this Administrative Law Judge that claimant's disability existed in October 2007 and continued through May 2008. The record suggests that claimant had numerous additional emergency room visits throughout that time period, presumably for her ongoing difficulties with asthma. The undersigned finds that the record supports a finding that claimant was "disabled" for purposes of MA from October 2007 through May 2008.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant met the definition of medically disabled under the Medical Assistance program from October 2007 through May 2008.

Accordingly, the department is ordered to initiate a review of the January 18, 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 special personal representative of claimant's estate of its determination in writing.

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

Date Signed: 07/30/09

Date Mailed: 07/31/09

**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:

