

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.: 2009-11230  
Issue No.: 2009  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
March 12, 2009  
Oakland County DHS (2)

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 12, 2009. The claimant appeared and testified. The claimant was represented by [REDACTED] of [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 July 25, 2008, an application was filed on claimant's behalf for MA-P benefits. The application did not request retroactive medical coverage.

- (2) On November 20, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- (3) On December 11, 2008, a hearing request was filed to protest the department's determination.
- (4) Claimant, age 29, has a high school education.
- (5) Claimant last worked in [REDACTED] as the owner and operator of a [REDACTED] restaurant. Claimant also had relevant work experience as a cashier and as an inventory-stock person.
- (6) Claimant was hospitalized [REDACTED] through [REDACTED]. His discharge diagnosis was ventricular fibrillation, cardiac arrest; acute cardiomyopathy, possibly viral in origin; no coronary artery disease; and aspiration pneumonia. During hospitalization, claimant underwent implantation of a single chamber cardioverter-defibrillator.
- (7) Claimant has had no further hospitalizations.
- (8) Claimant currently suffers from mitral regurgitation. His ejection fraction has improved from 20% to 50%.
- (9) The allegations concerning claimant's impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, does not reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity for a continuous period of not less than 12 months.

#### 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 eliminated for MA at this step in the sequential evaluation process.

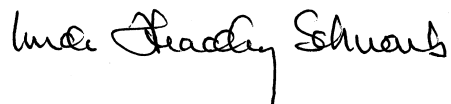
Secondly, the trier of fact must determine if claimant has a severe impairment which meets the durational requirement. Unless an impairment is expected to result in death, it must have lasted or be expected to last for a continuous period of at least 12 month. 20 CFR 416.909. In this case, claimant suffered cardiac arrest in [REDACTED]. He underwent surgery for implantation of a single chamber cardioverter-defibrillator. Thereafter, claimant's condition gradually improved. On [REDACTED], claimant's treating cardiologist opined that claimant was capable of frequently lifting up to 25lbs as well as capable of standing and walking about 6 hours in an 8 hour work day and sitting about 6 hours in an 8 hour work day. The cardiologist indicated that claimant was capable of repetitive activities with the upper and lower extremities and had no mental limitations. On [REDACTED], the treating cardiologist gave claimant a current diagnosis of mitral regurgitation. The physician indicated that claimant was capable of frequently lifting 10lbs and occasionally lifting up to 25lbs. Again, the cardiologist found claimant capable of repetitive activities with the upper and lower extremities and to have no mental limitations. On [REDACTED], the treating cardiologist gave claimant a Functional Capacity of Class I on the New York Heart Classification. [Patients with cardiac disease but

without resulting limitation of physical activity. Ordinary physical activity does not cause undue fatigue, palpitation, dyspnea or anginal pain.]. The treating cardiologist found claimant to have a therapeutic classification of Class B. [Patients with cardiac disease who ordinary physical activity need not be restricted, but who should be advised against severe or competitive physical efforts.]. There is nothing in the record to suggest that claimant has limitations which have resulted or will result in the inability to perform any substantial gainful activity for a continuous period of not less than 12 months. The record has failed to present medical data and evidence to support a finding that claimant has an impairment which has or will prevent any substantial gainful activity for the required 12 month durational period. Accordingly, the undersigned finds that the department has properly determined that claimant is not eligible for MA based upon disability. Claimant is certainly capable of performing his past work and would have no difficulty performing light or medium work activities, per his treating cardiologist's current restrictions. Accordingly, the department's decisions 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 claimant is not "disabled" for purposes of the Medical Assistance Program.

Accordingly, the department's decision in this matter is **HEREBY, AFFIRMED.**



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

Date Signed: 10/21/09

Date Mailed: 10/21/09

**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:

