

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: 2009-12869
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 31, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on March 31, 2009. Claimant personally appeared and testified. She was assisted by

[REDACTED]

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

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 is a divorced, 53-year-old ongoing smoker (half pack daily despite medical advice to the contrary) with a general equivalency diploma (GED) who stands

approximately 5'0" tall and weighs approximately 160 pounds; she is left hand dominant (Client Exhibit A, pgs 2 and 4).

(2) On November 29, 2007, third party liability specialists [REDACTED] field an application for disability-based medical coverage (MA) and a monthly cash grant (SDA) on claimant's behalf (Department Exhibit #1, pgs 23-30).

(3) If this application had been approved, the MA program would have provided financial assistance to claimant for an overnight hospitalization in August 2007 (8/9/07-8/10/07) (Department Exhibit #1, pg 30).

(4) When this application was denied, [REDACTED] filed a hearing request dated January 5, 2009 in their capacity as claimant's authorized hearing representative.

(5) Claimant's hearing was held on March 31, 2009.

(6) Claimant has been living with her significant other since March 2009; she is fully independent in all self cares and basic living activities; additionally, she has a valid driver's license but reports she doesn't drive because she has frequent "black-outs."

(7) Absolutely no objective medical tests were presented by claimant or her authorized representative to verify a basis for these self reported "black-outs," and medical examinations conducted in October 2008 (11 months after disputed application filing) and February 2009 (15 months after disputed application filing) do not note any neurological abnormalities (Client Exhibit A, pgs 1-5).

(8) Claimant has a remote history of mental health counseling (2001), but as of her hearing date (3/31/09) she was not being treated for any emotional or mental impairments, nor was she taking any prescription medications, per self report.

(9) Claimant spent an overnight in the hospital in August 2007 for dual stent placement in her anterior descending and proximal right arteries, which reduced her stenosis blockages to 0%; additionally, her follow-up echocardiogram (8//7) revealed a 60% ejection fraction (Client Exhibit A, pg 1).

(10) Claimant's February 1, 2008 cardiac evaluation (6 months post stent placement) indicates her blood pressure and heart rate were well-controlled on prescription medications and she reported she was doing well from a cardiac standpoint with no racing/pounding heartbeats, lightheadedness, weakness, anginal chest pain or other congestive heart failure symptoms (Client Exhibit A, pg 11).

(11) Again, lifestyle risk factor modifications (smoking cessation/exercise) were reviewed with claimant in detail (Client Exhibit A, pg 11).

(12) Claimant's October 2008 nuclear stress test did not reveal any evidence of myocardial ischemia at 88% of maximum predicted heart rate and she had no chest pain during the exertional part of that study (Client Exhibit A, pg 7).

(13) Claimant's reported symptoms at hearing were numbness in her right (non-dominant hand) and arthritis in her neck, shoulders and hands.

(14) Claimant stated she was using aspirin as needed for pain management and taking vitamin supplements regularly.

(15) Claimant has an unskilled work history (i. e., dry cleaning shop, shoe repair shop, factory), but she has not been gainfully employed since 1996, per self report.

(16) In December 2006, claimant underwent a psychiatric evaluation which revealed full orientation with intact cognitive function and a Global Assessment Function score (GAF) of 55 (Department Exhibit #1, pgs43 and 44).

(17) Claimant was advised to quit smoking [REDACTED] and also, the examining psychiatrist decided not to prescribe any medications other than [REDACTED] c in light of the fact claimant was reasonably stable and not experiencing depressive symptoms (Department Exhibit #1, pg 44).

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).

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).

"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.

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial gainful activity without good cause, there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

Claimant does not qualify for the MA/SDA disability coverage she seeks because neither she nor her authorized hearing representative have established the existence of a medically severe condition, or combination of conditions, which would prevent employability for the continuous durations required under MA/SDA program rules. Claimant's mental health status is within normal limits. Furthermore, all of her follow-up cardiac records indicate full function subsequent to dual stent placement during an overnight hospitalization in August 2007. Likewise, absolutely nothing in claimant's medical records establishes her arthritis is debilitating. In fact, as of the hearing date, claimant reported her pain was adequately controlled

with aspirin as needed. As such, claimant's disputed application must remain denied for lack of severity shown.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's November 29, 2007 MA/SDA application.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 8, 2010

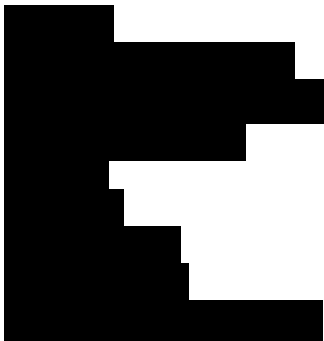
Date Mailed: February 9, 2010

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 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.

MBM/db

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