

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: 2009-13136

Issue No: 2009, 4031

Case No:

Load No:

Hearing Date:

April 6, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter was conducted on April 6, 2009 pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing received by the Department. The undersigned Administrative Law Judge has written this hearing decision after review of evidence in the record. At the hearing, the Claimant was present and testified. Also present on behalf of Claimant was [REDACTED]. Victoria Allen, Eligibility Specialist appeared on behalf of the Department.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of Medical Assistance ("MA") program.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant filed for SDA and MA on 11/6/08. Claimant requested SDA and MA retroactive to August, 2008.

2. Claimant is 5'0" tall and weighs 195 lbs.
3. Claimant is right handed.
4. Claimant is 49 years of age.
5. Claimant's impairments have been medically diagnosed as coronary artery disease, high blood pressure, high cholesterol, fibroid tumors, asthma and bipolar disorder.
6. Claimant's physical symptoms are tiredness, shortness of breath, and chest pains.
7. Claimant's mental symptoms are forgetfulness, difficulty concentrating, anxiety attacks, confusion, anger, and sleep disturbances.
8. Claimant testified that she takes prescriptions that cause her to be drowsy during the day.
9. Claimant's impairments will last of have lasted for a continuous period of not less than 12 months.
10. Claimant has a GED education.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant last worked in 2006 as a live in health caregiver.
13. Claimant has prior employment experience as a janitor, special education teacher's aide, and file clerk.
14. Claimant testified to the following physical limitations:
 - a. Sit –1 hr and then has to lie down or feels light headed and nauseous
 - b. Stand – 20 minutes, gets tired and dizzy
 - c. Walk – ½ block
 - d. Bend/stoop – no bending stooping b/c it makes her dizzy
 - e. Lift – 10 lbs.
15. Claimant performs household chores such as cooking, washing dishes and dusting. Claimant has someone who comes in to mop for her, help with grocery shopping, and help her clean the tub.
16. The Department found that Claimant was not disabled and denied Claimant's Medicaid application on December 1, 2008.
17. Medical records examined are as follows:

candidate for multivessel coronary artery bypass graft surgery. The patient underwent successful surgical revascularization on [REDACTED]

Lower Extremity Venous Duplex-Bilateral, [REDACTED] (Exhibit 2, p. 15)

[REDACTED], in part (Exhibit 2, pp. 9–14)

PROCEDURES: Left heart catheterization, left ventriculogram, coronary angiography, intravascular ultrasound.

IMPRESSION: Significant triple-vessel disease

RECOMMENDATION: coronary bypass surgery

[REDACTED], in part (Exhibit 2, pp. 16-21)

Patient presented to ER with chest pain. Patient was admitted to the CCu where she underwent cardiac catheterization and had stents placed in RCA. Thereafter, the patient was transferred to the general medical floor.

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 400.1 *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 CFR416.905

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 impairment(s); residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. A determination that an individual is disabled can be made at any step in the sequential evaluation. Then evaluation under a subsequent step is not necessary.

1. Current Substantial Gainful Activity

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, under the first step, Claimant has not worked since 2006. Therefore, the Claimant is not disqualified from receipt of disability benefits under Step 1.

2. Medically Determinable Impairment – 12 Months

Second, in order to be considered disabled for purposes of MA, a person must have a “severe impairment” 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities mean the abilities and aptitudes necessary to do most jobs. Examples include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing and speaking;
- (3) Understanding, carrying out, and remembering simple instructions.
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and

(6) Dealing with changes in a routine work setting. 20 CFR 416.921(b)

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. The court in *Salmi v Sec’y of Health and Human Servs*, 774 F.2d 685 (6th Cir 1985) held that an impairment qualifies as “non-severe” only if it “would not affect the claimant’s ability to work,” “regardless of the claimant’s age, education, or prior work experience.” *Id.* At 691-92. Only slight abnormalities that minimally affect a claimant’s ability to work can be considered non-severe. *Higgs v Bowen*, 880 F.2d 860, 862 (6th Cir. 1988); *Farris v Sec’y of Health & Human Servs*, 773 F.2d 85, 90 (6th Cir. 1985).

In this case, the Claimant has presented medical evidence of coronary artery disease and bipolar disorder. The medical evidence has established that Claimant has a medical impairment that has more than a minimal effect on basic work activities as shown by doctor’s restrictions, and Claimant’s impairments have lasted continuously for more than twelve months. Therefore, Claimant meets the burden of the second step.

3. Listed Impairment

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant’s impairment is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Based on the hearing record, the undersigned finds that the Claimant’s medical record supports a finding that the Claimant’s physical and mental impairment are “listed impairment(s)” or equal to a listed impairment. 20 CFR 416.920(a)(4)(iii). In this matter, the medical records establish a diagnosis of coronary artery disease and bipolar disorder. After reviewing the criteria of listing 4.04 *Ischemic heart disease*, the undersigned finds the Claimant’s medical records substantiate that the Claimant’s impairments meets or is medically equivalent to the listing requirements.

In 20 CFR 404, Appendix 1 to Subpart P, Listing 4.04 *Ischemic heart disease* is described as follows:

Ischemic heart disease, with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following:

- B. Three separate ischemic episodes, each requiring revascularization or not amendable to revascularization (see 4.00E9f) within a consecutive 12-month period.

Claimant has been admitted to the hospital three times in the past year with ischemic episodes that required revascularization. Claimant was admitted to the hospital on [REDACTED] and underwent an angioplasty. She was admitted in [REDACTED] and underwent a left heart catheterization, coronary angiogram and left ventriculogram. She was also admitted in [REDACTED] for a left heart catheterization and stent procedure. Claimant's medical impairment satisfies the criteria set out in the listing.

Therefore, the undersigned finds the Claimant's medical records substantiate that the Claimant's mental impairments meets or are medically equivalent to the listing requirements. In this case, this Administrative Law Judge finds the Claimant is presently disabled at the third step for purposes of the Medical Assistance (MA) program. As claimant is disabled, there is no need to evaluate Claimant with regards to the fourth or fifth steps.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 1939 PA 280, as amended. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.1 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). A person is considered disabled for purposes of SDA if the

person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI or RSDI benefits based on disability or blindness or the receipt of MA benefits based on disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in PEM 261.

In this case, there is sufficient evidence to support a finding that Claimant's impairment has disabled her under SSI disability standards. This Administrative Law Judge finds the Claimant is "disabled" for purposes of the MA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is medically disabled under the MA program as of November 6, 2008 including retroactive benefits to August, 2008.

Therefore, the department is ORDERED to initiate a review of the application of November 6, 2008, if not done previously, to determine claimant's non-medical eligibility. The department shall inform the claimant of the determination in writing. The case shall be reviewed in April, 2010.

/s/
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/27/09

Date Mailed: 04/28/09

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 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.

JV/dj

cc:

