



STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg No: 2009-13137
Issue No: 2009
Case No: 
Load No: 
Hearing Date:
May 20, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 20, 2009. The Claimant appeared and testified. Karen Lewis, MCW appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant Medical Assistance ("MA") benefits effective November 17, 2008.

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 MA on 8/4/08.
2. Claimant applied for SSI/RSDI on August 4, 2008. The Claimant's SSI was denied on October 21, 2008.
3. The Claimant failed to appeal the Social Security Administration's ("SSA") denial of SSI.

4. Claimant's impairments have been medically diagnosed as arthritis in legs and ankles.
5. Claimant's physical symptoms are swelling in knees, swelling in ankles, pain in knees and ankles, up and down legs.
6. Claimant is 5'2" tall and weighs 210 pounds.
7. Claimant is right handed.
8. Claimant is 59 years of age.
9. Claimant has a 10th grade education and GED. Claimant went to [REDACTED] and received a certificate for [REDACTED].
10. Claimant is able to read/write and perform basic math skills.
11. Claimant testified that she is currently working for [REDACTED] cleaning one house per day 3 days/week. Claimant earns \$30.00/house and spends 2 ½ hours per house. Claimant's job duties include cleaning bathrooms, kitchens, and bedrooms, making beds, sweeping and mopping. Claimant is required to bend down to pick up clothes off the floor. Claimant bends to clean the bathtub, but doesn't get on knees.
12. Claimant has prior employment experience as a medical assistant (1995-2000) which required lifting up 20 lbs. Bending and stooping was also required. Claimant's only other employment experience was working at a gas station as a clerk.
13. Claimant testified to the following physical limitations:
 - i. Sitting: No problems sitting, but hurts when gets up
 - ii. Standing: Cannot stand in one place too long. Must walk around after 10 minutes
 - iii. Walking: A block without hurting
 - iv. bend/stoop
 - v. Lifting: none
 - vi. Grip/grasp: None
14. Claimant lives with her son who is 19. Claimant performs household chores. Claimant can cook, wash dishes and clean. Claimant does her laundry, but has a difficult time getting up and down steps.
15. Claimant likes to read and does a little bit of gardening. Claimant plants Cannas, but just bends over instead of getting on her knees.
16. Claimant testified that she could work at other types of jobs as long as she doesn't have to do too much walking or bending on her knees.

17. The Department found that Claimant was not disabled and denied Claimant's application on November 17, 2008. Notice was mailed on 12/4/08.

18. Medical records examined are as follows:

SHRT DENIAL 2/27/09

Non severe impairment

8/4/08 Hospital ER (Exhibit 1, p. 3-

X-ray right ankle: soft tissue swelling both medially and laterally (p. 3)

X-ray bilateral knees: degenerative changes (p. 4)

[REDACTED], 9/15/08

BONE AND JOINTS: Straight leg raising is equal bilaterally. All peripheral pulses are equal and good bilaterally. Examination of the knees does reveal crepitus and some stiffness. Flexion and extension was 0-100 degrees in both knees. Right ankle movements were associated with pain and restricted to about 70% of normal range. Left ankle movements are normal. There is no wasting of muscles.

CONCLUSION: Bilateral knee pain; Rule out mild arthritis, nonspecific musculoskeletal pain affecting the legs and right ankle, obesity.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services pursuant to MCL 400.10, *et. seq.* The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

State Disability Assistant ("SDA") clients receiving disability-related MA must apply for SSI as a potential resource. PEM 270, p. 1 SDA clients are referred to the Social Security

Administration to apply for Supplemental Security Income (“SSI”) when they also receive Medicaid (“MA”) based on a Medical Review Team (“MRT”) decision that they are blind or disabled. PEM 271, p. 1. The disability standard for both disability related MA and SSI is the same. PEM 271, p. 1 When the SSA determines that a client is not disabled/blind for SSI purposes, the client may appeal that determination at SSA. PEM 260, p. 9 The SSA Appeals Process consists of three steps:

1. Reconsideration (if initial application filed prior to October 1, 1999)
2. Hearing
3. Appeals Council

PEM 260, p. 9. The client has 60 days from the date he receives a denial notice to appeal a SSA action. PEM 260, p. 9; PEM 271, p. 6 A SSA determination becomes final when no further appeals may be made at SSA. PEM 260, p. 2 Once a SSA’s determination that a disability or blindness does not exist becomes final, the MA case must be closed. PEM 260, p. 3; PEM 271, p. 8

In the record presented, the SSA made a determination that the Claimant was not eligible for SSI on October 21, 2008. The SSA decision was not appealed and thus became final and binding on the Claimant’s MA case. Ultimately, the Department established it acted in accordance with department policy when it canceled the Claimant’s MA coverage. The denial of MA is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law find that the Department acted in accordance with departmental policy when it denied the Claimant’s MA coverage November 17, 2008.

Accordingly, it is ordered that the denial of MA is AFFIRMED.

/s/

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

Date Signed: 05/28/09

Date Mailed: 05/28/09

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:

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