

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: 2009-15224
Issue No: 2009, 4031
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 28, 2007
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra Wright

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 telephone hearing was held on May 28, 2009. Claimant appeared and testified. Her best friend, daughter, and son also appeared as witnesses. An eligibility specialist represented the Department.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA) and State Disability Assistance (SDA) programs?

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 applied for Medicaid (MA-P) and SDA benefits on October 2, 2008.
- (2) The Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for State Disability and Medicaid on December 26, 2008.

- (3) On March 24, 2009, the State Hearing Review Team denied eligibility again on the grounds that Claimant is capable of performing past work.
- (4) Claimant was 49 years old with a birth date of [REDACTED] at the time of the hearing. Claimant is 5'3' and weighs 160 pounds. She is right hand dominant. Claimant completed high school and one year of college where she studied business. For more than 20 years she worked as a legal secretary for lawyers in private practice and also worked for the [REDACTED] as a legal secretary. She last worked from August to September 2008 as a telemarketer.
- (5) Claimant asserted that she does not smoke or use cigarettes or alcohol.
- (6) Claimant had a driver's license at the time of the hearing but does not own a car. Moreover, Claimant asserted that she cannot drive due to her neck and back injuries and arthritis.
- (7) In addition, Claimant asserted she cannot cook for herself nor do any housework, including light housework.
- (8) Claimant complains of nerve damage in her neck resulting from three bulging discs at cervical spine area. In addition, Claimant asserted that she has back pain from the bulging discs. Claimant also complains of arthritis that affects the entire right side of her body, including her right shoulder, arm, and leg. Claimant was also diagnosed with depression in 2005 and October 2006. She was diagnosed with arthritis in 2006.
- (9) The objective medical evidence reveals that she was diagnosed at the [REDACTED] [REDACTED] in June 2006 with chronic pain condition, lumbar radiculopathy, and probable fibromyalgia; irritable bowel syndrome, interstitial cystitis;

endometriosis and depression. Some time prior to June 2006, she had back surgery for a herniated disc.

- (10) In January 2009, Claimant was treated at [REDACTED] after complaining of chest pain. At that time, she was diagnosed with “atypical chest pain secondary to cervical spine arthritis” and “neck arthritis secondary to motor vehicle accident.”
- (11) On December 9, 2008, Claimant was examined at the [REDACTED] in Detroit. Claimant was found to be able, occasionally, to lift 15 to 20 pounds. She was also found to be able to stand or walk for about four hours in an eight-hour day. Claimant was also found to be “able to do simple grasping, reaching, pushing, pulling and fine manipulation with her left hand more so than the right,” and to be able to operate foot and leg controls with both legs occasionally.”
- (12) Claimant contends that she walks with the use of a makeshift cane.
- (13) At this hearing, Claimant asserted that she cannot sit or stand more than five minutes, cannot walk more than ten minutes and cannot lift more than one pound.
- (14) The Department received Claimant’s hearing request on January 16, 2009.

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA 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 (formerly known as the Family Independence Agency) 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).

Pursuant to Federal Rule CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program, Under SSI, disability is defined as:

. . .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

Pursuant to 20 CFR 416.920 a five step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b). In this case, Claimant is not employed. She last worked for the [REDACTED] as a legal secretary in 2007.

Secondly, the individual must have an impairment that must have lasted or must be expected to last for a continuous period of at least 12 months. This is the "durational

requirement.” 20 CFR 416.909. In this case, Claimant’s impairments have lasted longer than 12 months.

The third step in the process is to assess whether the impairment or combination of impairments significantly limits an individual’s physical or mental ability to perform basic work activities. If these abilities are not significantly limited, an individual does not have a severe impairment and is therefore not disabled. 20 CFR 416.920(c). In this case, Claimant’s combination of impairments severely limits her physical ability to perform basic work activities.

In the fourth step of the process the social security listing in appendix 1 is used. If the impairment or combination of impairments meet or is the medically equivalent of a listed impairment as set forth in appendix 1, the individual is considered disabled. If not, vocational factors are considered. 20 CFR 416.920(d). In the instant case, Claimant’s combined mental and physical impairments are not the medical equivalent of a listed impairment under Part 404, Subpart P. Listing of Impairments.

In the fifth step an individual’s residual functional capacity (RFC) is considered in determining whether disability exists. An individual’s age, education, work experience and skills are use to evaluated whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e). In the present case, Claimant is a younger individual, with a high school education, and a semi-skilled work history. Under rule 201.21 at Table No. 1, Residual Functional Capacity: Maxium Sustained Work Capability Limited to Sedentary Work as a Result of Severe Medically Determined Impairments(s), Claimant is not disabled. Therefore, it is found that Claimant does not qualify for MA based on disability and is not disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant does not meet the definition of medically disabled under the MA program as of her application on October 2, 2008. Retroactive MA is also not applicable.

Accordingly, the Department's determination is AFFIRMED.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/09/09

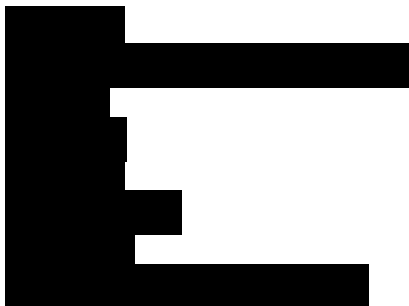
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NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration 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.

TW/dj

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