

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: 2009-20582
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 25, 2009
Sanilac 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, a telephone hearing was held on June 25, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) 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, 49-year-old high school graduate who lives independently in [REDACTED].

(2) Claimant stands approximately 5'2" tall and weighs approximately 145 pounds; she is right hand dominant.

(3) Claimant still smokes approximately three packs of cigarettes per week despite exhibiting unstable angina and marked hypokinesia involving the anteroseptum, suggestive of a non Q-wave myocardial infarction in December, 2008 (Department Exhibit #1, pgs 41, 57 and 58).

(4) Claimant was hospitalized at [REDACTED] for two days (12/24/08-12/26/08) where cardiac catheterization revealed an 80% stenosis (blockage) in her left anterior descending artery (LAD), but her echocardiogram revealed well-preserved left ventricular function with a 50% (normal) ejection fraction (Department Exhibit #1, pgs 41 and 56).

(5) Claimant underwent successful stenting of her LAD at [REDACTED] which reduced the stenosis to zero percent (Department Exhibit #1, pg 59).

(6) Claimant's January 12, 2009 cardiac follow-up report notes she was doing very well and she was fit for return to work without restrictions as of February 1, 2009 (Department Exhibit #1, pg 40).

(7) Claimant applied for disability-based medical coverage (MA/retro-MA) on January 2, 2009.

(8) If this application had been approved, the expenses associated with claimant's cardiac hospitalization and treatment would have been covered by MA.

(9) Claimant has an unskilled work history (factory, cashier, fast food).

(10) Claimant returned to work at [REDACTED] part-time on February 2, 2009 (20 hours weekly [REDACTED] per hour)(Department Exhibit #1, pg 5)(See also Finding of Fact #6 above).

(11) Claimant stated at her MA/retro-MA application denial hearing on June 25, 2009 (6 months post-hospitalization) she would accept full-time work if [REDACTED] offered it.

(12) Claimant's prescription medications as of her hearing date included [REDACTED] and an [REDACTED] daily (Department Exhibit #1, pg 7).

(13) Claimant's only other documented condition is minimal ventral spondylosis at L2-3, as well as along the L4/L5 end plates and at her thoracolumbar junction (Client Exhibit A).

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).

Pursuant to Federal Rule 42 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

This means an applicant must be completely unable to do any type of work because of a medically determinable physical or mental impairment lasting continuously for at least 12 months, or because he/she has a diagnosed terminal illness.

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).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...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).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

Claimant was unemployed when she underwent cardiac stent placement in December, 2008. A medical report issued six months later reveals this procedure was fully successful. Claimant's doctor authorized a return to employment as of February 1, 2008, and claimant did, in fact, return to work the following day.

Claimant is completely independent in all activities of daily living. Unfortunately, she simply has not set forth any medical evidence to document a condition, or combination of conditions, which would prevent her from working in a wide variety of jobs currently existing in the national economy, including the Subway job she had as of her hearing date (6/25/09). As such, claimant's disputed application must remain denied based on lack of severity and duration shown.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled by MA eligibility standards.

Accordingly, the department's decision is AFFIRMED.

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

Date Signed: July 14, 2009

Date Mailed: July 15, 2009

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

cc:

