

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: 2009-20716  
Issue No: 2009  
Case No. [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 25, 2007  
Macomb 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 June 25, 2009. Claimant appeared and testified. A program manager represented the Department.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA-P) and retroactive MA-P?

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 retro MA-P benefits on January 8, 2009.
- (2) On February 24, 2009, the Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for MA-P and retro MA-P benefits.

- (3) On May 13, 2009, the State Hearing Review Team denied eligibility again on the grounds that Claimant is capable of performing light work.
- (4) Claimant was 44 years old with a birth date of [REDACTED] at the time of the hearing. Claimant is 5'1" and weighs 100 pounds. She is left hand dominant. Claimant completed high school and has a history of unskilled work.
- (5) Claimant is not employed. She last worked on May 12, 2008 at a [REDACTED] restaurant. From 1987 through 1991 she worked in factory. Claimant asserted that she does not smoke or use cigarettes or alcohol.
- (6) Claimant does not have a driver's license.
- (7) Claimant asserted that she began experiencing seizures and dizziness in 2003. She last had a seizure in early December 2008. As a result, she was hospitalized at [REDACTED] in [REDACTED] from December 1, 2008 through December 3, 2008 after suffering a seizure. Claimant has not had a seizure since that time.
- (8) On December 3, 2008, a physician at [REDACTED] noted that Claimant takes Dilantin and is "noncompliant with her Dilantin" because she had not been taking it for the past two days. As a result, the physician noted that Claimant "had what appears to be a break-through seizure."
- (9) Claimant lives alone and asserted she can cook for herself, do housework and outside chores. Her hobbies include bowling, skating and biking.
- (10) Claimant asserted that she has no prescribed limitations on her activities and does not limit her activities in any way.
- (11) 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.
- (12) The Department received Claimant's hearing request on March 9, 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).

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 at a [REDACTED] restaurant in May 2008 and has a history of unskilled work.

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 impairment has lasted longer than 12 months because she was first diagnosed in 2003.

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 does not severely limit 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 201.20 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-P or retro MA-P based on disability.

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 January 8, 2009. 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: 07/07/09

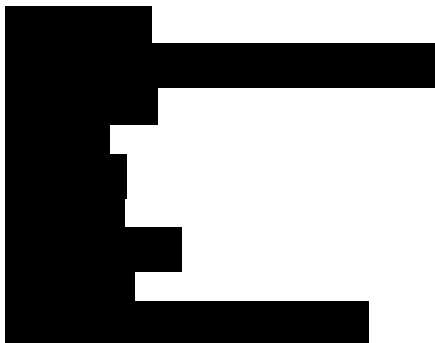
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**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or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

cc:

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