

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.: 2009-22626
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 23, 2009
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Pontiac, Michigan on July 23, 2009. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] 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. The Claimant submitted a public assistance application seeking MA-P retroactive for September 2008 on December 15, 2008.

2. On January 23, 2009, the Medical Review Team (“MRT”) determined the Claimant was not disabled finding the Claimant’s impairment(s) were not expected to result in death or have lasted (or expected to last) for a period of 12 months or longer. (Exhibit 1, pp. 1, 2)
3. On this same date, the Claimant’s SDA benefits were approved. (Exhibit 1, p. 1)
4. On February 3, 2009, the Department notified the Claimant of the determination.
5. The Claimant filed a written request for hearing.
6. On March 13, 2009, the Claimant filed a second application for public assistance.
7. On March 31, 2009, the MRT found the Claimant disabled thus approving the application retroactive from December 2008, noting the date the condition began as September 2008. (Exhibit 4)
8. On June 6, 2009, the State Hearing Review Team (“SHRT”) found the Claimant not disabled. (Exhibit 3)
9. The Claimant’s impairment(s) have lasted or are expected to last continuously for a period of 12 months or longer.
10. The Claimant’s alleged disabling impairments are due to congestive heart failure, cardiomyopathy, hypertension, stroke, headaches, and chest pain.
11. At the time of hearing, the Claimant was 43 years old with a [REDACTED] birth date; was 5’10 ½” in height; and weighed 239 pounds.
12. The Claimant is a high school graduate with a work history working as a mortgage broker and restaurant manager.

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 (“DHS”), formally known as the Family Independence Agency, 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”).

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(a) 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 make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913 An individual’s subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a) Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.929(a)

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant’s pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant’s pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3) The applicant’s pain must be assessed to determine the extent of his or her

functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2)

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1) The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945

In this case, the March 31, 2009 MRT determination found the Claimant's disability began September 2008 however retroactive benefits were approved only from December 2008 (based upon the subsequent March 13, 2009 application date). In light of the foregoing, it is found that the Claimant met the federal disability criteria effective September 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above finds of facts and conclusions of law, finds the Claimant disabled for purposes of the Medical Assistance program.

Accordingly, it is ORDERED:

1. The Department's determination regarding the Claimant's December 15, 2008 application is REVERSED.
2. The Department shall initiate review of the December 15, 2008 application which included Retro MA-P for September 2008 to determine if all other non-medical criteria are met and inform the Claimant and his representative of the determination.
3. The Department shall supplement the Claimant any lost benefits he was entitled to receive if otherwise eligible and qualified in accordance with department policy.

4. The Department shall review the Claimant's continued eligibility in accordance department policy in August 2010.

/s/

Colleen M. Mamelka
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed: 08/11/09

Date Mailed: 08/12/09

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 the Circuit 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.

CMM/jlg

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