

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: 2009-22680
Issue No: 2009, 4031
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 16, 2009
Oakland 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 July 16, 2009. Claimant and her case worker from [REDACTED] appeared and testified. An eligibility specialist and an assistance payments supervisor represented the Department.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA), retroactive 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 based on disability on October 9, 2008.

- (2) The Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for State Disability and Medicaid on March 18, 2009 on the grounds that she is capable of performing other work.
- (3) Claimant was 54 years old with a birth date of [REDACTED] at the time of the hearing. Claimant is 5'0" and weighs about 200 pounds. She is right hand dominant. Claimant completed high school and college, earning a bachelor's degree with a double major in [REDACTED] and [REDACTED] in [REDACTED]. She received a Master's degree in [REDACTED] in [REDACTED]. For more than 20 years she performed clerical work. Claimant also worked for six years at [REDACTED] as an assistant gift manager in a department responsible for raising money for the school.
- (4) Currently, claimant is not employed. She last worked two years ago as a cashier at a grocery store, a position she held for two weeks.
- (5) Claimant asserted that she does not smoke or use cigarettes or alcohol.
- (6) Claimant has a driver's license but does not drive.
- (7) In addition, Claimant asserted she can cook for herself and shops for groceries with the assistance of a friend who makes sure she does not purchase items in larger quantities than necessary.
- (8) Claimant's only hobby and recreational activity is reading. Claimant contends that she reads only when her attention span allows her to do so.
- (9) Claimant contends that she was diagnosed with depression in [REDACTED], has suffered from panic and anxiety attacks since the [REDACTED] and was diagnosed with bipolar disorder in [REDACTED]. Claimant had a psychiatric breakdown in [REDACTED].

- (10) A physician who examined Claimant on [REDACTED] diagnosed Claimant as suffering from Major Depressive Disorder without current psychotic symptoms and Generalized Anxiety Disorder. Claimant also has ulcers and suffers from extreme diarrhea. (Exhibit 5-8). This physician noted that Claimant could manager her own funds and described her prognosis as “fair.”
- (11) Claimant sees a doctor at the [REDACTED] for her psychiatric problems and [REDACTED] for her medical conditions. Claimant takes several medications, including Lexapro, Klonopin, Geodon, and Synthroid. Claimant recently started seeing another doctor, a gastrologist.
- (12) Claimant contends that a typical day consists of her remaining in bed all day.
- (13) At this hearing, Claimant asserted that she cannot sit or stand more than five minutes, cannot walk more than ten minutes and can’t lift more than one pound.
- (14) The Department received Claimant’s hearing request on April 2, 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 as a grocery store cashier two years ago.

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 does not severely limit her physical or mental 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. A doctor determined in [REDACTED] that her prognosis regarding her mental condition was "fair." He also noted that Claimant has Major Depressive Disorder but without current psychotic symptoms.

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 an advanced age individual, with a college education, and an semiskilled work history. Under rule 202.07 at Table No. 1, Residual Functional Capacity: Maximum Sustained Work Capability Limited to Light 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 and SDA programs as of her application on October 9, 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: 08/20/09

Date Mailed: 08/24/09

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.

TW/dj

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