

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: 2009-2560

Issue No: 2009/4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 11, 2008

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

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, an in-person hearing was held June 11, 2008. Claimant was represented [REDACTED]

ISSUE

Is claimant disabled for the purposes of the Medical Assistance and State Disability Assistance 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 Medical Assistance and State Disability Assistance on March 16, 2007. Claimant requested Medical Assistance retroactive to December 2006.

(2) Claimant's impairments have been medically diagnosed as uncontrolled hypertension, sinus tachycardia, right atrial enlargement, left ventricular hypertrophy, congestive heart failure, dyslipidemia, left rotator cuff tendinitis and right groin tendonitis.

(3) Claimant's physical symptoms are constant pain in the right groin, swelling in the ankles and hands (daily), chest pains and shortness of breath (even upon minimal exertion).

(4) Claimant's impairments will last or have lasted for a continuous period of not less than 12 months.

(5) Claimant is 53 years of age.

(6) Claimant has an 11th grade education.

(7) Claimant has employment experience in data entry.

(8) Claimant has significant limitations on physical activities involving sitting (no more than 40 minutes at a time), standing (no more than 15 minutes at a time), walking (no more than a half block at a time), bending, lifting and stooping. Claimant uses a cane for ambulation. She cannot walk without it. Claimant has severe limited range of motion in the left shoulder. She has limited range of motion in the right hip, lumbar spine, cervical spine and right leg.

(9) The department found that the claimant was not disabled and denied claimant's application on April 30, 2007.

(10) Upon claimant's request for a hearing, medical evidence was submitted to the State Hearing Review Team. The State Hearing Review Team determined the claimant was not disabled for the programs.

heading

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) 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).

The Department of Human Services conforms to state statute in administering the State Disability Assistance program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be

90 days. Substance abuse alone is not defined as a basis for eligibility.

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

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

Here, claimant's impairment or combination of impairments is severe but does not meet nor is it the equivalent of a listed impairment. Claimant is also unable to do past work.

Therefore, the determination of disability will be based on claimant's residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Claimant's impairments and limitations have a major effect upon claimant's ability to perform basic work activities. Claimant is unable to perform the full range of activities for even sedentary work as defined in 20 CFR 416.967(a) because of the nature of the limitations. The total impact caused by the combination of medical problems suffered by the claimant must be considered. The combination of claimant's impairments result in a severe impairment which limits claimant's ability to work. 20 CFR 404.1529.

Claimant's impairments or combination of impairments prevent claimant from performing her past previous work which was sedentary labor. Claimant has two very serious

conditions. One involving her heart, she has sinus tachycardia, right atrial enlargement, left ventricle hypertrophy and congestive heart failure. She has regular chest pains and she has shortness of breath even upon minimal exertion. She also has serious impairments involving her back and her shoulder. In an examination report dated October 10, 2008, the physician indicated that claimant's muscle strength is 4/5 in the right upper extremity and 3/5 in the left upper extremity. She had 3/5 in the right lower extremity and 4/5 in the left lower extremity. She has right groin tenderness over the femoral artery with decreased range of motion. She indicated that claimant ambulates with a cane with a limp on the right side. She is unable to heel walk, toe walk and tandem walk. She is only able to stand with pain. She is unable to bend, stoop, carry, push and pull and is unable to squat and arise. She further indicated that there are limitations in carrying pushing and pulling. The grip strength is limited in the hands. There are limitations in climbing stairs, climbing ropes, ladders or scaffolding. She indicated the claimant had a decreased range of motion in her left rotator cuff due to tendentious. She further supported a need for a walking aide to decrease pain. The report further indicated the claimant has unpredictable gait and ataxic gait. At the hearing, claimant testified that she is severely limited in the amount of sitting, standing, walking, bending, lifting and stooping she can perform because of constant pain.

This Administrative Law Judge does take into account claimant's complaints of pain in that the diagnoses do support the claims. Subjective complaints of pain where there are objectively established medical conditions that can reasonably be expected to produce the pain must be taken into account in determining a claimant's limitations. *Duncan v Secretary of HHS*, 801 F2d 847, 853 (CA6, 1986); 20 CFR 404.1529, 416.929.

Based on the medical evidence and claimant's testimony, it appears that claimant is unable to perform a full range of activities for even sedentary work as defined in 20 CFR 416.967(a) because of the nature of her limitations. *Wages v Secretary of HHS*, 755 F2d (6 Cir 1985). Therefore, claimant is disabled for the purposes of the Medical Assistance and State Disability Assistance programs. Rule 201.00(h) at Federal Rule 20 CFR 404, Subpart P, Appendix 2.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is medically disabled under the Medical Assistance and State Disability Assistance programs as of December 1, 2006. Therefore, the department is ordered to initiate a review of the application of March 16, 2007, if not done previously, to determine claimant's non-medical eligibility. The department shall inform the claimant of its determination in writing. The case shall be reviewed in January 2010.

/s/ _____
Rhonda P. Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/24/09

Date Mailed: 03/25/09

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 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.

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