

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: 2009-8076
Issue No: 2009
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 1, 2009
Wayne 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 1, 2009. Claimant appeared and testified. A medical contact worker represented the Department.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA) and retroactive MA 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 retroactive MA-P benefits due to a disability on August 15, 2008.
- (2) The Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for Medicaid on November 6, 2008.

- (3) On January 9, 2009, the State Hearing Review Team also denied eligibility again on the grounds that Claimant's impairments do not meet or equal the intent of severity of a Social Security listing and Claimant "retains the capacity to perform a wide range of light work."
- (4) Claimant was 55 years old with a birth date of [REDACTED] at the time of the hearing. Claimant is 5'8" and weighs 143 pounds. She is right hand dominant. Claimant completed high school. She has worked for 15 years as a home health aide. Currently, Claimant is not employed. She was last employed in [REDACTED] as a home health aide, a position that ended after she dropped a patient when her hand "went numb."
- (5) Claimant does not use drugs or alcohol.
- (6) Claimant does not have a driver's license and does not does not drive
- (7) Claimant was diagnosed with carpal tunnel syndrome in 2005, rheumatoid arthritis in 2001 and has experienced back and neck pain for several years. In [REDACTED], an MRI exam revealed "mild to moderate" cervical cord compression.
- (8) Claimant had a surgery in [REDACTED] for a broken blood vessel in her chest and had surgery related to her spine in [REDACTED].
- (9) A hearing commenced on June 1, 2009 in this matter. Claimant complained of pain in her neck and back and headaches about four times a week.
- (10) Because claimant was scheduled for a post-surgery follow-up vision in [REDACTED], at the June 1, 2009 hearing, the Administrative Law Judge issued an interim order leaving the record open until August 1, 2009 to allow the Department to obtain a doctor's report from a post-surgery follow-up exam of Claimant. The

Administrative Law Judge was not provided with a post-surgery follow-up exam or any other additional medical documentation.

(11) Claimant takes prescription pain medication and medication for hypertension and heartburn. Claimant generally can bathe and dress herself although she sometimes needs help. She does not do any housework and does not shop for groceries but sometimes prepares meals.

(12) The Department received Claimant's hearing request on November 7, 2008.

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 as a home health aid in [REDACTED].

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, neck pain and 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, the evidence did not establish that Claimant’s combination of impairments -- back and neck pain and carpal tunnel syndrome -- significantly 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 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. Part 404, Subpart P, App. 2. 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 high school education, and an unskilled work history. Under rule 203.14 at Table No. 3, Residual Functional Capacity: Maximum Sustained Work Capability Limited to Medium Work as a Result of Severe Medically Determined Impairment(s), Claimant is not disabled. Therefore, it is found that Claimant does not qualify for MA 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 August 15, 2008.

Accordingly, the Department's determination is AFFIRMED.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/21/09

Date Mailed: 09/22/09

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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cc:

