

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: 2010-28103
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 on May 26, 2010. Claimant and her father personally appeared and testified.

ISSUE

Did the department properly determine at review claimant no longer meets the disability rules necessary to qualify for Medicaid (MA) or State Disability Assistance (SDA)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) In February 2008, claimant was hospitalized with pneumonia which progressed into kidney failure (2/25/08-3/02/08); consequently, the department approved her eligible for disability-based MA until a mandatory medical review of her condition was conducted.

(2) On March 16, 2010, the department received claimant's hearing request protesting the closure of her MA case based upon a finding of improvement at review.

(3) On April 5, 2010, the department's State Hearing Review Team (SHRT) issued a prehearing denial which concurred with the local office's findings, and also, SHRT deemed claimant not disabled for the SDA program, which provides a monthly cash grant to those disabled individuals who qualify.

(4) Claimant's hearing was held on May 26, 2010.

(5) Claimant is a single, high school graduate who will turn [REDACTED] years old on [REDACTED].

(6) Claimant currently resides with her father in [REDACTED].

(7) Since August 2009, claimant has been employed (and she remains employed) as a part-time orthodontic dental assistant; she underwent on-the-job training to learn the requirements of this position.

(8) Claimant's other past relevant work experience includes unskilled waitressing and cashier jobs.

(9) At age [REDACTED] claimant underwent a heart transplant after suffering a heart attack secondary to diagnosed congenital restrictive cardiomyopathy.

(10) None of claimant's routine post heart transplant follow-up examinations contained within her medical file to date verify anything but positive health.

(11) Specifically, claimant's most recent annual examination report, dated October 26, 2009, states in relevant part:

...On physical examination, [claimant] was a healthy-appearing woman in no acute distress at rest weighing 127 pounds, a decrease of 2-1/2 pounds since her clinic visit in February 2009. Vital signs, pulse 76 regular, blood pressure 120/89, respirations 8. The

patient's oxygen saturation was 99% on room air. There was no jugular venous distention. The lungs were clear. The cardiac apical impulse was difficult to palpate. No parasternal activity was present. S1 was split without respiratory variation. S2 was narrowly split also without respiratory variation. No murmurs or gallops were audible. The abdomen was benign without organomegaly or a pulsatile liver edge. No area was tender. The extremities showed no dependent edema. Peripheral pulses were 2+ bilaterally.

[Claimant's] most recent endomyocardial biopsy and right heart catheterization on September 21, 2009 were unremarkable. Her endomyocardial biopsy showed no evidence of rejection and right heart hemodynamics were normal. Her allograft score was 29. Based on these results, we have not planned any further endomyocardial biopsies but anticipate repeating an AlloMap in 1 year.

My impression is that [claimant's] orthotopic heart transplant is continuing to function well. I recommend that she continue her current medications. She is scheduled for repeat laboratory studies in 2 months. I asked her to provide a blood sample today for amylase and lipase levels because of the reported gall bladder and pancreas swelling.

(12) The examining specialist also noted claimant was remaining very active, working part-time in a dental office and working out regularly.

(13) Claimant is on a standard, post-transplant prescription medication schedule consisting of [REDACTED] and [REDACTED] with an iron supplement and multivitamins daily

(14) Claimant acknowledged at hearing she is capable of working, but she needs MA "insurance" to pay for her ongoing prescription medications.

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's monthly disability cash grant program (SDA) has a very low income limit [REDACTED]. Claimant's gross monthly income from her job at the dental office exceeds this amount; consequently, she does not qualify for cash assistance and SHRT's denial at review must be upheld.

Regarding the MA program, the applicable rules state:

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 to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

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

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

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).

Claimant does not qualify for the MA continuation she seeks because her medical records do not establish the existence of a medical impairment, or combination of impairments, severe enough to preclude employability for the requisite duration (12 continuous months). In fact, claimant was working part-time in a dental office as of the hearing date and none of her medical

records support a finding that she is incapable of doing that type of work full-time if the hours become available.

Claimant is an intelligent, articulate young lady who has remained admirably engaged in all basic activities of daily living despite her heart transplant nine years ago. Unfortunately, those individuals who qualify for MA benefits are so compromised physically and/or mentally they cannot work in any capacity. Claimant's medical records simply fail to establish she is incapable of engaging in any number of unskilled jobs currently existing in the national economy, which is the standard to be applied in disability determination cases. As such, the department properly denied MA continuation at medical review.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined at review claimant no longer meets the disability rules necessary to qualify for MA/SDA.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 15, 2010

Date Mailed: June 15, 2010

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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