

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg. No.: 2010-32921
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 5, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on August 5, 2010. Claimant did not appear for the hearing. Claimant's Notice of Hearing has not been returned by the U.S. Post Office as undeliverable. Claimant was represented at the hearing by [REDACTED]. Despite claimant's failure to appear, claimant's authorized representative asked that a decision be made based upon the available medical record.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

FINDINGS OF FACT

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

1. On October 8, 2009, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to September of 2009.
2. On January 20, 2010, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
3. On April 16, 2010, a hearing request was filed to protest the department's determination.
4. Claimant, age 27, has at least a high-school education.

5. Claimant's work history and current work status is unknown.
6. Claimant has a history of alcohol abuse and seizure disorder.
7. Claimant was hospitalized [REDACTED] as a result of a seizure secondary to non-compliance with anti-seizure medication.
8. Claimant had cataract surgery on his left eye on [REDACTED], and cataract surgery on his right eye on [REDACTED].
9. The hearing record contains no further information as to claimant's work status and medical condition or symptoms, if any.
10. Claimant's authorized representative was unable to obtain additional and/or updated medical evidence as well as information as to claimant's work status.

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Federal regulations require that the department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

...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.

In general, claimant has the responsibility to prove that he is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in

question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Federal regulations at 20 CFR 416.913(e) state as follows:

COMPLETENESS

The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in (a) of this section, information you gave us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind. It must allow us to determine:

1. The nature and severity of your impairment(s) for any period in question;
2. Whether the duration requirement described in Section 416.909 is met, and
3. Your residual functional capacity to do work-related physical and mental activities...

In this case, there is limited medical evidence regarding claimant's medical condition. Claimant's only hospital records during the relevant time period were from [REDACTED] when he was hospitalized for a seizure secondary to non-compliance with anti-seizure medication. A [REDACTED] consulting internist exam performed on [REDACTED] resulted in a diagnosis of alleged history of seizure disorder; peripheral neuropathy involving the right lower extremity below the knee joint ("... Patient has no functional limitations from it"); and borderline diabetes. The consultant provided the following medical source statement:

"Based on the history of physical examination today, in my opinion, this patient is suitable for work for 8 hours a day. In view of the history of seizures, falls or neuropathy involving the right leg I would suggest that he should avoid working with moving machinery, driving moving vehicles, climbing ladders and scaffolding."

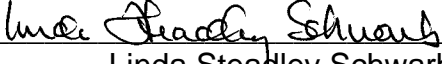
A DHS-49 from claimant's treating ophthalmologist dated [REDACTED], confirmed claimant's cataract surgeries on [REDACTED] and [REDACTED]. Claimant did not appear for the hearing. Claimant's authorized representative has not been able to obtain additional medical evidence or other documentation from claimant.

Apparently, claimant's cooperation could not be secured to assist in obtaining additional, updated medical evidence. Further, there is no information as to claimant's work history or current work status. The undersigned Administrative Law Judge is unable to use the sequential evaluation process to assess claimant's eligibility for program benefits. See 20 CFR 416.920. There is simply insufficient information necessary to assess claimant's eligibility for program benefits. Thus, the record does not support a finding that claimant had or has a disabling condition(s) which prevented or could be expected to prevent all substantial gainful activity for the required one-year duration. Accordingly, the department's denial of claimant's application for program benefits must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is not "disabled" for purposes of the Medical Assistance program.

Accordingly, the department's determination in this matter is hereby affirmed.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 10, 2010

Date Mailed: August 12, 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.

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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.

LSS/pf

cc:

