

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.: 2010-33297  
Issue No.: 2009  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
June 9, 2010  
St. Clair County DHS

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 June 9, 2010. Claimant did not appear for the hearing. Claimant was reported to be incarcerated. Claimant was represented at the hearing by [REDACTED]. Claimant's representative indicated that claimant would not be available for future consulting exams and requested that the undersigned Administrative Law Judge make a decision based upon the evidence submitted at the hearing.

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 September 3, 2009, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to August of 2009.
- 2) On February 4, 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 28, 2010, a hearing request was filed to protest the department's determination.
- 4) Claimant, age 36, has a tenth-grade education.
- 5) Claimant's last known employment was in 2004 as a die setter. Claimant's work history prior to incarceration is unknown.
- 6) Claimant was hospitalized August 6 through August 7 of 2009 as a result of a left ankle abscess with cellulitis.
- 7) Claimant was re-hospitalized [REDACTED] as a result of new onset seizure activity secondary to a change in his pain medication. The problem was resolved, claimant's EEG was essentially normal, and claimant was discharged home.
- 8) Claimant currently suffers from Type I diabetes mellitus, peripheral neuropathy secondary to diabetes mellitus, degenerative joint disease, chronic pain syndrome, hypothyroidism, hypertension, generalized anxiety disorder, and borderline personality disorder.
- 9) Other than the [REDACTED] and [REDACTED] hospitalizations, the hearing record contains no further evidence as to claimant's current medical condition or symptoms, if any.

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).

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.

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 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.

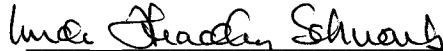
In this case, the record does not reveal claimant's work history prior to incarceration. Even the date of claimant's incarceration is unknown. Further, there is insufficient medical evidence regarding claimant's medical condition. Claimant's hospital records from [REDACTED] and [REDACTED] are the only medical records contained in the hearing file regarding the period from [REDACTED] to date. Claimant did not appear for the hearing. Claimant's authorized representative reported that claimant is incarcerated and will not be available for consulting exams. Claimant's authorized representative requested that the undersigned Administrative Law Judge make a determination based upon the documentation submitted at the hearing. In light of the limited record, the undersigned 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. Claimant has not

established that he had or has a disabling condition(s) which prevented or is expected to prevent all substantial gainful activity for the required one-year duration. Further, based upon the minimal medical evidence available from claimant's two brief hospitalizations, the record does not support a finding that claimant is incapable of unskilled sedentary work activities. See Med Voc Rule 201.24. Accordingly, the department's denial of claimant's application in this matter 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 Schwarb  
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 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:

