

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

IN THE MATTER OF:



Reg. No: 201052104
Issue No: 2009/4031
Case No: [REDACTED]
Hearing Date
October 14, 2010
Ogemaw County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 October 14, 2010. Claimant personally appeared and testified.

This hearing was originally held by Administrative Law Judge Jana Bachman. Judge Bachman is no longer affiliated with the State Office of Administrative Hearings and Rules Department of Human Services and this hearing decision was completed by Administrative Law Judge Landis Y. Lain by considering the entire record.

ISSUE

Whether claimant meets the disability criteria for Medical Assistance (MA-P), retroactive Medical Assistance (retro MA-P) and 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. On July 9, 2010, claimant filed an application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits alleging disability.
2. On August 5, 2010, the Medical Review Team (MRT) denied claimant's application stating that claimant's impairments lacked duration.

3. On August 16, 2010, the department caseworker sent claimant notice that her application was denied.
4. On August 31, 2010, claimant filed a request for a hearing to contest the department's negative action.
5. On September 13, 2010, the State Hearing Review Team (SHRT) again denied claimant's application stating in its analysis and recommended decision:

Per 20 CFR 416.909, the claimant's left knee fracture is not expected to last for a continuous period of 12 months; or, the claimant's impairment is expected to improve post operatively. Although she has liver disease, the medical tests show that her liver is not seriously damaged. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform past work as an assistant manager. Therefore, based on the claimant's vocational profile (advanced age, high school grade, and a semi-skilled work history); MA-P is denied using Vocational Rule 202.22 as a guide. Retroactive MA-P was consider in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.

6. On the date of hearing, claimant was a 57-year-old woman whose birth date is August 4, 1953. Claimant was 5'4" tall and weighed 141 pounds. Claimant completed the 12th grade and is able to read, write and does have basic math skills.
7. Claimant last worked September 16, 2010, as a babysitter making [REDACTED] per child per hour working [REDACTED] per week for 2 ½ years. Claimant has also worked doing dishes, waitressing and kitchen help, as a cashier, stockperson and assistant manager at a fruit market.
8. Claimant alleges as disabling impairments: broken knee and Hepatitis C.
9. On March 31, 2011, this Administrative Law Judge received an SOLQ from the Social Security Administration (SSA) which indicates that claimant is eligible to receive RSDI with a disability onset date of May 12, 2010.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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

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).

Because of the Social Security determination is not necessary for the Administrative Law Judge to discuss the issue of disability. BEM, Item 260; the department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically disabled under the Medical Assistance and State Disability Assistance programs as of July 9, 2010 application date. Claimant also meets the definition of medically disabled for the months of May and June 2010 for purposes of the retroactive Medical Assistance application. This Administrative Law Judge is bound by the Social Security determination that claimant's disability onset date is May 12, 2010.

Accordingly, the department is ORDERED to reinstate claimant's Medical Assistance, retroactive Medical Assistance and State Disability Assistance application and initiate a

review of the July 9, 2010 applications if it has not already done so to determine if all other non-medical eligibility criteria are met. The department shall inform claimant of the determination in writing.

/s/

Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 11, 2011

Date Mailed: April 11, 2011

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.

LYL/db

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