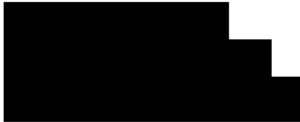


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201055117
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: January 5, 2011
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 1/5/11.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P)?

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 7/1/10, claimant applied for MA-P and SDA with the Michigan DHS.
2. Claimant applied for 2 months of retro MA.
3. On 8/25/10, the MRT denied claimant's MA-P. MRT approved claimant's SDA. The parties stipulated at the administrative hearing that there is no SDA issue herein.
4. On 8/4/10, the DHS issued notice.
5. On 9/30/10, claimant filed a hearing request.
6. Claimant has an SSI application pending with the Social Security Administration (SSA).

7. On 9/30/10, the State Hearing Review Team (SHRT) denied claimant.
8. As of the date of application, claimant was a 44-year-old female standing 5' 6" tall and weighing 165 pounds. Claimant has a high school diploma.
9. Claimant testified that she does not currently consume alcohol. Claimant last drank in May, 2010. Claimant testified that she does not have any drug abuse problem or history. Claimant alleges disability in large part due to alcoholism. The claimant smokes a pack of cigarettes per day. She has a nicotine addiction.
10. Claimant has a driver's license and can drive a motor vehicle.
11. Claimant is not currently working. Claimant last worked in October, 2007 when she was working in the banking industry as an operations specialist. Claimant worked in this field for 18 years. Claimant said she was fired due to excessive absenteeism and began to drink heavily. Claimant's work history is skilled.
12. Claimant alleges disability on the basis of pancreatitis, cirrhosis, hemorrhage, and "alcoholism." Exhibit 6.
13. The 10/4/10 SHRT findings and conclusions of its decision are adopted and incorporated by reference to the following extent:

... Denied by MRT due to lack of duration ... Medical summary: admitted [REDACTED] due to right side paresthesia, problem transient ischemic attack. Had alcohol intoxication on admission. Exhibit 17. Admitted [REDACTED] due to severe symptomatic anemia secondary to menometrorrhagia. Received blood transfusion and underwent endometrial syndrome, alcoholism, alcohol liver disease, hypoalbuminemia secondary to liver disease. Exhibit 32-34 ... Transferred [REDACTED] with diagnosis of alcoholic cirrhosis, alcoholic liver failure, abdominal pain and ascites. Underwent ultrasound guided abdominal paracentesis. Exhibits 84-86. In [REDACTED] admitted again with abdominal pain, stated no alcohol since [REDACTED]. Findings consistent with acute pancreatitis ... liver functions were within normal limits.

14. Claimant testified that she does not need any assistance with her bathroom and grooming needs. Claimant essentially testified that she is able to take care of her activities of daily living.

15. Claimant testified that her liver enzymes as of her last blood work were within the normal limits.
16. Claimant testified that she does not have any specific evidence indicating she cannot work.
17. Numerous medical documents from hospitalizations repeatedly diagnosis claimant with alcohol intoxication, history of alcoholism, history of alcoholic liver disease, history of hypertension.

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).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...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.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. 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 no, the analysis continues to Step 2.
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.909(c).
3. Does the impairment appear on a special Listing of Impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. Sections 200.00-204.00(f)?
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...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).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...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 sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...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).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

(c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). As the medical record indicates that claimant was denied on the basis of duration at Step 2 by both the MRT and the SHRT. 20 CFR 416.909. This ALJ concurs.

In reaching this conclusion, it is noted that claimant has indicated at the administrative hearing that she ceased drinking in May, 2010. Claimant further indicated that her condition has significantly improved since that time. In fact, both the record as well as by way of claimant's testimony, claimant's liver enzymes were within normal limits as of

the last blood work. Claimant's activities of daily living are not restricted. Claimant stipulated she did not have any evidence that she could not work.

Claimant did complain of excessive muscle and joint pain and weakness. However, there is no medical evidence in the file which would meet the sufficiency requirements which would show that such symptoms are documented by medical evidence rising to statutory disability under the law pursuant to the requirements at 20 CFR 416.927 and .928. See also .913(b), (d), and (e).

It is also noted that drug or alcohol addiction, even if it rises to statutory disability, is not considered disabling.

As noted above, claimant has the burden of proof pursuant to 20 CFR 416.912(c). Federal and state law is quite specific with regards to the type of evidence sufficient to show statutory disability. 20 CFR 416.913. This authority requires sufficient medical evidence to substantiate and corroborate statutory disability as it is defined under federal and state law. 20 CFR 416.913(b), .913(d), and .913(e); BEM 260. These medical findings must be corroborated by medical tests, labs, and other corroborating medical evidence that substantiates disability. 20 CFR 416.927, .928. Moreover, compliance and symptoms of pain must be corroborated pursuant to 20 CFR 416.929(a), .929(c)(4), and .945(e). Claimant's medical evidence in this case, taken as a whole, simply does not rise to statutory disability by meeting these federal and state requirements. 20 CFR 416.920; BEM 260, 261.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

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

Janice
Administrative

/s/ _____
Spodarek
Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 21, 2011

Date Mailed: January 21, 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 mailing date of the rehearing decision.

JS/

cc:

