

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.: 2010-7351
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
February 22, 2010
Oakland County DHS (02)

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 February 22, 2010. Claimant was represented by [REDACTED]. Claimant was reportedly in jail and unable to participate in 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 July 27, 2006, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to April of 2006.

- 2) On April 27, 2009, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- 3) On July 27, 2009, a hearing request was filed to protest the department's determination.
- 4) At the time of the hearing, claimant was in jail and not available to testify. No additional testimony or evidence was submitted.
- 5) Claimant, age 35, has an unknown educational background.
- 6) Claimant's relevant work history is unknown.
- 7) Claimant is HIV positive.
- 8) In [REDACTED], claimant suffered a subdural hematoma which required bur hole evacuation. Claimant suffered a reoccurrence of the subdural hematoma in [REDACTED]. Claimant has experienced no further known incidents of subdural hematoma.
- 9) A medical examination of claimant performed on [REDACTED], at the [REDACTED] [REDACTED] was essentially normal.
- 10) No additional testimony or evidence was available for consideration.
- 11) Claimant suffers from no significant physical or mental limitations with respect to his ability to perform basic work activities.

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

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 determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not

disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, at the time of the hearing, claimant was in jail. Since he was not involved in substantial gainful activity, claimant may not be disqualified for MA at this step in the sequential evaluation process.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Basic work activities means the abilities and aptitudes necessary to do most jobs. Examples of these include:

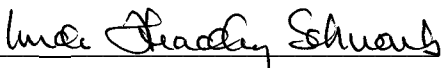
- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, the medical records indicate that claimant is HIV positive. The records do not contain any indication of the severity of claimant's condition. Claimant was hospitalized in [REDACTED] for a subdural hematoma which was treated with bur hole evacuation. His subdural hematoma reoccurred in [REDACTED]. Claimant has had no further known

hospitalizations. Claimant was examined on [REDACTED], at the [REDACTED]. His examination was essentially normal. Claimant was not available for testimony at the hearing due to his incarceration. No additional testimony or evidence was available. Claimant has not met his burden of proof that he has an impairment that is severe or significantly limits his physical or mental abilities to perform basic work activities necessary for most jobs. The evidence fails to support the position that claimant is incapable of basic work activities. See 20 CFR 416.927. Accordingly, the undersigned concludes that the department properly determined that claimant is not entitled to MA based upon disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not “disabled” for purposes of the Medical Assistance program. Accordingly, the department’s decision in this matter is hereby affirmed.


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

Date Signed: March 30, 2010

Date Mailed: March 31, 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:

