

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: 2010-8115

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 24, 2010

Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on February 24, 2010. Claimant and her daughter personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) eligibility standards?

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 August 20, 2009, claimant applied for disability-based MA/retro-MA because she underwent cardiac surgery in July 2009.

(2) Specifically, claimant was hospitalized from July 2, 2009 through July 20, 2009 in congestive heart failure secondary to mitrial valve regurgitation caused by mitrial valve endocarditis (Department Exhibit #1, pgs 33 and 34).

(3) Claimant's echocardiogram documented the above-referenced condition, as well as significant disease in her posterior circumflex artery which necessitated mitrial valve replacement surgery and bypass grafting x 1 on July 13, 2009 (Department Exhibit #1, pgs 33 and 34).

(4) At hospital discharge claimant's new valve was functioning well with an ejection fraction of 55% (Department Exhibit #1, pg 33).

(5) No cardiac complications occurred and claimant returned to her job as a bilingual teacher's aide in the public school system on January 19, 2010.

(6) In fact, three months earlier, in September 2009, claimant's cardiac surgeon verified stable blood pressure, normal temperature and good weight (5'0"/125 pounds); as of that month, this doctor dismissed claimant from his care (Department Exhibit #2, pgs 1-3).

(7) Claimant noted at her disability denial hearing on February 24, 2010, she also was hospitalized for lower back pain in November 2009 due to a "pinched nerve"(i. e., sciatica).

(8) This spinal condition, along with claimant's cardiac treatment history, were reviewed by the department's State Hearing Review Team (SHRT) prior to claimant's disability hearing.

(9) On December 9, 2009, the department's SHRT doctors recommended claimant's disability disallowance continue, stating as follows:

The medical evidence of record indicates that the claimant's condition is improving or is expected to improve within 12 months from the date of onset or from the date of surgery. Therefore, Medicaid-P and retroactive Medicaid-P are denied due to lack of duration under 20 CFR 416.909. State disability was not applied for at this time. Listings 3.03 and 4.01 were considered in this decision (Department Exhibit #3).

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).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...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 person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

Claimant simply does not qualify for the MA/retro-MA disability coverage she seeks because she has not established the existence of a medically severe condition which has prevented gainful employment for the requisite duration (12 months). In fact, claimant underwent corrective cardiac procedures in July 2009 and returned to substantial gainful employment in the school system as of January 2010. Consequently, the evidence of record clearly establishes claimant does not meet even the threshold requirement necessary to qualify for disability benefits. As such, her disputed application must remain denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's August 20, 2009 MA/retro-MA application.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 22, 2010

Date Mailed: March 23, 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 receipt 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.

MBM/db

cc:

