

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.: 2010-10915
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
February 17, 2010
Wayne County DHS (82)

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 17, 2010. Claimant appeared and testified. Claimant was represented by [REDACTED]

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 August 11, 2009, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to July of 2009.

- 2) On September 18, 2009, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- 3) On October 21, 2009, a hearing request was filed to protest the department's determination.
- 4) Claimant, age 40, has a tenth-grade education. Claimant reports receiving additional tutoring in reading and math from grades four through nine.
- 5) Claimant testified that her last relevant work was performed in 2008 as a cashier. Claimant has had no other relevant work experience.
- 6) Claimant was hospitalized [REDACTED]. Her discharge diagnosis was acute pancreatitis secondary to hypertriglyceridemia; respiratory failure secondary to acute respiratory distress, secondary to pancreatitis; acute renal failure; anemia; and sepsis secondary to urinary tract infection/pancreatitis.
- 7) Claimant was re-hospitalized [REDACTED] as a result of complaints of a headache. Her discharge diagnosis was headache, rule out aseptic meningitis, psychiatry disorder; pancreatic pseudocyst; depression; and non-compliance with medication, no insurance issues.
- 8) At the hearing, claimant complained of headaches, depression, and, since [REDACTED] [REDACTED], pain/burning/weakness of the bilateral upper extremities.
- 9) At the hearing, claimant acknowledged receipt of ongoing Unemployment Compensation benefits through January of 2010. Claimant disavowed knowledge that eligibility for unemployment benefits is contingent upon the ability to and availability for full-time work activities.

- 10) Claimant currently suffers from no significant physical or mental limitations with respect to her 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 she 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, claimant is not currently working. Accordingly, 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;

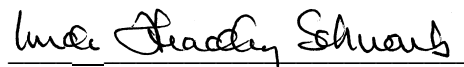
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, claimant was hospitalized in [REDACTED] as a result of pancreatitis. She had a brief hospitalization in [REDACTED] with complaints of a headache. Claimant has had no other hospitalizations or emergency room visits. At the hearing, claimant complained of headaches, depression, and, since [REDACTED], pain/burning/weakness of her bilateral upper extremities. At the hearing, claimant acknowledged that she had been receiving Unemployment Compensation benefits through January of 2010. Claimant disavowed knowledge of a requirement for receipt of Unemployment Compensation benefits that a person must be “able to, available for, and actively seeking suitable full-time work.” Claimant was seen by a consulting psychiatrist for the [REDACTED] on [REDACTED]. The psychiatrist diagnosed major depressive disorder, single episode with psychotic features; rule out dysthymia; and rule out schizoaffective disorder, depressed type. The psychiatrist opined that claimant is “able to understand, retain and follow simple instructions...” Claimant was also seen by a consulting internist on [REDACTED]. The consultant diagnosed claimant with acute pancreatitis, diabetes, chronic back pain, headaches, and chronic stomach pain. The consultant opined that claimant “may have difficulty with repetitive and heavy lifting, bending, pushing and pulling.” A careful review of the hearing record reveals that claimant has not met her burden of proof that she has an impairment that is severe or significantly limits her physical and mental abilities to perform basic work activities necessary for most jobs. The evidence fails to support claimant’s position that she is incapable of basic work activities. See 20 CFR 416.927. At the hearing, claimant testified that she experiences headaches which she treats with over-the-counter

medication. She reported that she is depressed but denied seeking mental health services. Claimant also complained of experiencing pain/burning/weakness of the bilateral upper extremities since [REDACTED]. Claimant had no other complaints. The hearing record simply fails to support the contention that claimant has a severe impairment which affects her ability to engage in basic work activities. Even if claimant does have a severe impairment, the impairment does not bar her from engaging in her past work activities as a cashier. It should also be noted that claimant was receiving Unemployment Compensation benefits through the month of January of 2010 and was implicitly acknowledging that she was “able to, available for, and seeking suitable full-time work.” Claimant did acknowledge that, when she had access to a computer, she was looking for work online. It is the finding of this Administrative Law Judge that the department properly determined that claimant is not entitled to MA benefits based upon disability. Accordingly, the department’s decision in this matter is hereby affirmed.

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 30, 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:

