

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-14499
Issue No: 2009/4031
Case No: [REDACTED]
Hearing Date
February 11, 2010
Ingham County DHS (33)

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, an in-person hearing was held on February 11, 2010. Claimant personally appeared and testified.

This hearing was originally held by Administrative Law [REDACTED] is no longer affiliated with the Michigan Administrative Hearing System Administrative Hearings for the Department of Human Services. This hearing decision was completed by Administrative Law [REDACTED] by considering the entire record.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (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 February 26, 2009 claimant filed an application for Medical Assistance Retroactive Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On September 3, 2009, the Medical Review Team denied claimant's application stating that claimant could perform prior relevant work pursuant to 202.20 stating that claimant could do light work that is not around dangerous machines or heights.
- (3) On September 11, 2009, the department caseworker sent claimant notice that her application was denied.

- (4) On December 9, 2009, claimant's representative filed a request for a hearing to contest the department's negative action.
- (5) On January 11, 2010, the State Hearing Review Team again denied claimant's application stating that claimant is capable of performing past work per 20 CFR416.920(e) and stating as comments that the claimant retains the residual functional capacity to perform at least light work. The claimant's past work was sedentary as he describes it. The claimant retains the capacity to return to past relevant work.
- (6) The hearing was held on February 11, 2010. At the hearing, claimant waived the time period and requested to submit additional medical information.
- (7) Additional medical information was submitted and sent to the State Hearing Review Team on December 2, 2011.
- (8) On December 21, 2011, the State Hearing Review Team approved claimant for Medical Assistance and State Disability Assistance benefits and denied claimant for Retro-MA-P benefits stating in its analysis and recommendations: adopting the Social Security Administration/Administrative Law Judge decision. The Social Security Administration/Administrative Law Judge made a favorable decision dated June 7, 2010, establishing the onset of disability to February 23, 2010. The Social Security Administration/Administrative Law Judge finds that criteria for listings 1.04 are met. It is specifically noted that claimant was gainfully employed from July 25, 2008 to February 22, 2010. The claimant was approved for Social Security Disability benefits on June 7, 2010 and is currently in payment status. Therefore, MA-P is approved effective February 23, 2011. SDA is approved per PEM261. Retro MA-P and SDA are denied November 2008 thru February 22, 2010 secondary to the claimant date gainfully employed.

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 Administration determination, it is not necessary for this Administrative Law Judge to make a disability determination. This Administrative Law Judge adopts the State Hearing Review Team assessment. The Social Security Administration/Administrative Law Judge determined that claimant was eligible for Supplemental Security Income and has established disability under Section 1614-(a) (3) (A) of the Social Security Act since February 23, 2010. This Administrative Law Judge is bound by the Social Security Administration's determination. PEM260.

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

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).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

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

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are 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).

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

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect

judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
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 416.920(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? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(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. 20 CFR 416.920(e).
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? If yes, the analysis ends and the client is

ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At step 1, claimant was engaged in substantial gainful activity from July 2008 thru February 22, 2010. Claimant is disqualified from receiving disability for purposes of Retroactive Medical Assistance and State Disability Assistance benefits from the dates of July 5, 2008 thru February 22, 2010 and at Step 1.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for Retroactive Medical Assistance and State Disability Assistance benefits for the month of July 5, 2008 to February 22, 2010, based upon the fact that claimant was gainfully employed. Accordingly, the department's decision in terms of the date from July 5, 2008 thru February 8, 2010, is hereby AFFIRMED. The department incorrectly determined that claimant was ineligible to receive medical assistance benefits from February 22, 2010 forward. The department's decision from February 23, 2010 is hereby REVERSED. The department is ORDERED to open an ongoing medical assistance case effective the date of SSI entitlement.

The department is ORDERED to conduct a review of claimant's medical assistance (MA-P) case in January 2013. At review the department needs to determine whether or not claimant remains eligible for Social Security Administration benefits. If claimant can incur payment status the department need not perform a medical review. However, if claimant does not remain in payment status, the department shall conduct a medical review and assist claimant in providing a prior medical packet, DHS-49, B, F, and G; all hospital and treating source notes and test results; all consultative examination, including all purchased by the SSA/Disability Determination Service.

/s/

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

Date Signed: 1/5/12

Date Mailed: 1/5/12

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/ds

■ [REDACTED]