

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: 2010-16758
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 28, 2010
LivingstonCounty DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 April 28, 2010. Claimant personally appeared and testified. Claimant was represented at the hearing by [REDACTED].

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro 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 October 15, 2009, claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.

(2) On November 6, 2009, the Medical Review Team denied claimant's application stating that claimant was capable of performing other work.

(3) On December 11, 2009, the department caseworker sent claimant notice that his application was denied.

(4) On January 7, 2010, claimant filed a request for a hearing to contest the department's negative action.

(5) On February 4, 2010, the State Hearing Review Team again denied claimant's application stating he was capable of performing other work, namely light work per 20 CFR 416.967(b) and Vocational Rule 202.13.

(6) The hearing was held on April 28, 2010. At the hearing claimant testified that he had applied for Social Security disability but was denied after he stated he was not disabled.

(7) Claimant further testified that he had gained 30 lbs. since he quit drinking, that he is working on and off as a self-employed mechanic due to economic situation, and that he is not having any medical problems that would prevent him from being employed.

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

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 is not engaged in substantial gainful activity as according to his hearing testimony he is only working “on and off” as a self-employed mechanic due to the economic situation. Therefore, claimant is not disqualified from receiving disability at Step 1.

At Step 2, claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for a duration of at least 12 months. Objective medical evidence of record shows that the claimant was admitted to the hospital on August 22, 2009 for confusion and alteration in mental status. Claimant was brought in by the EMS called by the claimant’s wife. Claimant’s wife stated he had been getting disoriented and confused for almost the last two months now, then fell out of the bed and had an episode where he apparently had a probable seizure kind of an episode. Claimant never lost his consciousness but was found in altered mental status by the EMS personnel who brought him to the ER. According to claimant’s wife he had been drinking alcohol for the last few days, did drink around 12 cans of beer every day, and had been doing so for the last two years. Claimant also smoked one pack of cigarettes per day. Claimant had no history of past seizures.

Claimant was admitted to the hospital and started on normal saline with potassium replacement, as he did appear very dehydrated. Claimant was also placed on alcohol withdrawal protocol. Claimant was eventually discharged on August 22, 2009 with a diagnosis of altered mental status secondary to hypernatremia and alcohol withdrawal. It was noted that the claimant denied any weakness or numbness, or any urinary or bowel problems. Claimant’s cranial nerves were normal, his extremity strength was 5/5, and sensory was also within normal limits. A CT of claimant’s brain showed no evidence of mass, hemorrhage or infarction. CT of claimant’s

cervical spine showed no evidence of rupture or subluxation. Claimant was instructed to abstain from alcohol and keep up his plans to go to [REDACTED].

Claimant testified at the hearing that he has had no other health problems since August, 2009, that he had stopped consuming alcohol, and that he had since gained 30 lbs. due to not drinking and eating better. Claimant also testified that he told SSA that he was not disabled and his SSI application was therefore denied. Claimant is still self-employed as a mechanic and the amount of work performed depends on the economic situation. Claimant's representative provided as only additional medical evidence a letter dated October 14, 2009 from [REDACTED], stating that the claimant is "completely and entirely disabled" and that his disability started August 22, 2009. No description of what medical problems claimant is having was given. This Administrative Law Judge cannot therefore give this letter any substantial weight, especially in the light of claimant's hearing testimony and evidence presented showing that August, 2009 hospital admission appears to have been caused by his heavy consumption of alcohol, and that he does not have any continuing medical problems that would make him disabled and unable to work.

At Step 2, claimant has not established that he does have a severe impairment or combination of impairments which have lasted or will last the durational requirement of 12 months or more. No further analysis is needed.

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 Medical

Assistance and retroactive Medical Assistance benefits. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 4, 2010

Date Mailed: May 4, 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.

IR/tg

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the 'cc:' field.