

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: 201023354
Issue No: 2009
Case No: [REDACTED]
Hearing Date
April 20, 2010
Ionia County DHS (34)

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, a telephone hearing was held on April 20, 2010. Claimant was represented at the hearing by [REDACTED]

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 [REDACTED] by considering the entire record.

This is a Rehearing from a hearing held December 5, 2007, register number 2007-22760.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance Program (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 March 26, 2007, claimant filed an application for Medical Assistance and Retroactive Medical Assistance benefits alleging disability.

- (2) The Hearing Decision and Order the register number 2007-22760 is incorporated in its entirety herein.
- (3) On August 17, 2009, Judge JW Sexton affirmed the department's denial of claimant's Medical Assistance application stating that claimant is not disabled for MA-P purposes based on Step 5 of the sequential evaluation.
- (4) A request for a Rehearing was filed.
- (5) A request for a Rehearing was granted by Administrative Law Manager Marya A. Nelson-Davis on Marcy 29, 2010.
- (6) A Rehearing was held on April 20, 2010, by Administrative Law Judge JW Sexton.
- (7) A Rehearing was granted stating the new information should be sent to the State Hearing Review Team for review which existed at the time of the decision.
- (8) New information was submitted and sent to the State Hearing Review Team April 20, 2010.
- (9) On April 21, 2010, the SHRT again stated that it had insufficient evidence and requested treating physician notes from January 2008 forward.
- (10) At the time, claimant was a [REDACTED] and had a 12th grade education, with a history of semi-skilled work.
- (11) Claimant alleges disabling impairments: left heart enlargement, left ventricular hypertrophy. Ejection fraction 45%. Aortic insufficiency, mitral and tricuspid insufficiency, heart attack and triple bypass.

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 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).

At Step 1, claimant is not engaged in substantial gainful activity is not disqualified from receiving disability at Step 1.

At Step 2, claimant has established a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months or could result in death.

Claimant is not engaged in substantial gainful activity is not disqualified from receiving disability at Step 2.

The analysis at Step 3, finds that the medical evidence of the claimant's condition does not give rise to a finding that she would meet a statutory listing in the code of federal regulations.

At Step 4, claimant last worked as a Certified Computer Operator in 1977, as a Foster parent, and as a Manager of a Rental Center.

This Administrative Law Judge finds that there is evidence upon which this Administrative Law Judge can base the finding that claimant was unable to perform work for which he has been gainful in the past.

This Administrative Law Judge will not disqualify claimant at Step 4, and will continue to proceed through the sequential evaluation process to determine whether or not the claimant has a residual functional capacity to perform some other less strenuous task at her prior jobs.

At Step 5, the burden of proof shifts to the department to establish that claimant does not have residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools.

Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

The claimant had submitted sufficient objective medical evidence that she lacks the residual functional capacity to perform some other less strenuous tasks than in her prior employment or that she is physically unable to do light or the full compliment of sedentary tasks if demanded of her. Claimant's activities of daily living do not appear to be very limited and she probably cannot perform light or sedentary task even with her impairments. There is sufficient objective medical evidence in the record to establish that claimant is disabled for purposes of medical assistance and retroactive medical assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant meets the definition of Medically Disable as of March 26, 2007.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the March 26, 2007 application if it is not already done so to determine if all of the non medical eligibility criteria are met. The department should also consider claimant for the retroactive months of December 2006, January 2007, and February 2007 if there was a retroactive medical assistance application filed. If there was no retroactive medical assistance application filed in the prior months will not be considered for disability. The department shall inform the claimant of the determination in writing. Because of the claimant's advanced age, there is no need for a medical review.

/s/

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

Date Signed: 1/3/12

Date Mailed: 1/4/12

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]