

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.: 2010-24200
Issue No.: 2009/3004
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 22, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Taylor, Michigan on Thursday, April 22, 2010. The Claimant appeared and testified. [REDACTED] [REDACTED], and [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Department properly denied the Claimant's food assistance application?
2. Whether the Department properly denied the Claimant's Medical Assistance application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant submitted an application for public assistance seeking food assistance ("FAP") and medical assistance ("MA-P") benefits on February 2, 2010. (Exhibit 1, pp. 4 – 14)
2. The Claimant was employed as a truck driver. (Exhibit 1, pp. 15 – 18)

3. The Department received the Claimant's income and asset verifications. (Exhibit 1, pp. 17, 36)
4. As a result of the employment, the Claimant's MA-P case was denied. (Exhibit 1, pp. 38 – 41)
5. The Department denied the Claimant's FAP benefits based on a telephone conversation. (Exhibit 1, pp. 38 – 41)
6. On February 25, 2010, the Department received the Claimant's timely written request for hearing. (Exhibit 1, p. 2)

CONCLUSIONS OF LAW

In this case, the Claimant protested the denial of his FAP and MA-P application thus each program will be addressed separately.

Food Assistance Program

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department of Human Services ("DHS"), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Program Glossary ("BPG").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 The client must obtain the required verification, however, the Department must assist if needed

and/or requested. BAM 105; BAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. BAM 130 If no evidence is available, the Department should use its best judgment. BAM 130 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

In the instant case, the Claimant provided the requested verifications however, after a telephone call, the Department denied the application believing the Claimant had verbally withdrawn the application. The Claimant acknowledged the conversation but denied that his intention was to withdraw the application. Based on the foregoing, the Department agreed to reopen and process the Claimant's FAP application and supplement the Claimant for any lost benefits that he was entitled to receive. Accordingly, the Department's determination is REVERSED.

Medical Assistance Program

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services ("DHS"), formerly known as the Family Independence Agency, pursuant to MCL 400.10 *et seq* and MCL 400.105. Department policies are found in the BAM, BEM, and BPG.

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) 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 make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913 An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a) Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3) The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2)

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1) The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education,

and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps. 20 CFR 416.920(a)(4) If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4) If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945 Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1) An individual's residual functional capacity assessment is evaluated at both steps four and five. 20 CFR 416.920(a)(4) In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv)

In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a) An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a) An individual is not disabled regardless of the medical condition, age, education, and work experience, if the individual is working and the work is a substantial, gainful activity. 20 CFR 416.920(a)(4)(i) Substantial gainful activity means work that involves doing significant and productive physical or mental duties and is done (or intended) for pay or profit. 20 CFR 416.910(a)(b) Substantial gainful activity is work activity that is both substantial and gainful. 20 CFR 416.972 Work may be substantial even if it is done on a part-time basis or if an individual does less, with less responsibility, and gets paid less than prior employment. 20 CFR

416.972(a) Gainful work activity is work activity that is done for pay or profit. 20 CFR
416.972(b)

In the record presented, the Claimant was working as a truck driver earning \$13.25 an hour. Ultimately, because the Claimant was involved in a substantial gainful activity, he cannot be found disabled for purposes of the MA-P program. Accordingly, the Department's MA-P determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, AFFIRMS in part/REVERSES in part the Department's determinations.

It is ORDERED:

1. The Department's FAP determination is REVERSED.
2. The Department shall (as agreed) re-open and process the Claimant's February 2, 2010 FAP application in accordance with policy.
3. The Department shall notify the Claimant in writing of the determination and shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.
4. The Department's MA-P determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/30/2010

Date Mailed: 4/30/2010

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 60 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.

CMM/jlg

cc:

