

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201029418

Issue No: 2009/4031

[REDACTED] [REDACTED]
Hearing Date: May 18, 2010
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 May 18, 2010. Claimant was represented by [REDACTED]. The record was held open to allow Claimant the opportunity to submit new medical documentation.

ISSUE

Did the Department properly determine that Claimant did not meet the disability standard for Medical Assistance based on disability (MA-P) benefits?

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 January 20, 2010, Claimant applied for MA-P and retro MA-P benefits.
2. On February 2, the Medical Review Team denied Claimant's MA-P application.
3. On February 4, the Department notified Claimant that she was denied MA-P benefits.
4. On March 29, the Department received Claimant's hearing request, protesting the denial of MA-P benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P benefits.

6. Claimant applied for disability benefits based on having blindness in the left eye and mobility problems. (Department exhibit #1, pg 27)
7. Claimant had been admitted to the hospital on December 24, 2009, with strep pneumonia sepsis and DIC complicated by left eye blindness, bilateral panuveitis, lower extremity purpua, and gangrenous toes. (Department Exhibit #1, pgs 19-22)
8. Claimant's physical examination on January 8, 2010 revealed the following: some swelling around the bilateral lower extremities with dressing around distal lower extremities; evidence of weeping/blistering of skin with distal right toes black/blue in coloration; cranial nerves grossly intact; strength 5/5 in the right upper extremity throughout; exam of left upper extremity was limited by pain in the left shoulder, but strength of the left elbow flexors and extensors, wrist extensors and intrinsic hand muscles were 5/5 throughout; strength of the bilateral hip flexors and extensors was 3/5; strength of the bilateral knee flexion and extension was 4+/5; the examiner was unable to adequately assess strength of EF, PF, EHL in the distal lower extremities secondary to pain, tenderness on the skin, however strength of the dorsiflexion appeared to be at least 4/5 bilaterally; Claimant's left eye vision loss had improved; Claimant has made significant progress with her physical and occupational therapy and was moderate assist for lower extremity mobility in and out of her bed as well as being able to ambulate with wheeled walker approximately 50 feet; mobility of left shoulder was limited due to pain, and the doctors were awaiting the results of the CT and x-ray of left shoulder. (Department Exhibit #1, pgs. 5-7)
9. According to an examination report dated January 26, 2010: Claimant's vision changes had improved, and she reported that she had seen an ophthalmologist that morning who told her that findings revealed her vision had improved, but not completely resolved; Claimant was in no acute distress; and multiple digits on her bilaterally feet had dry gangrene. (Department Exhibit #2, pg 2)
10. According to an examination report dated February 16, 2010: Claimant was on 6 weeks of antibiotics and had substantial improvement in her ophthalmological exam per communication with medical source, and her antibiotics for anterior uveitis was stopped due to resolving anterior uveitis in both eyes; and Claimant was referred to vascular surgery to observe gangrene of toes just in case surgical debridement was needed in future. (Department Exhibit #2, pg 3-5)
11. Claimant is a 49 year-old female with past relevant work experience as a manager at [REDACTED] restaurant for approximately 14 years and a 10th grade education. (Department Exhibit #1, pg 24)

12. Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
13. Claimant applied for federal SSI benefits at the Social Security Administration (SSA).

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).

"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.

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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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).

Since Claimant was not engaged in substantial gainful activity at any time relevant to this matter, the analysis continues.

You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

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

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

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

..Evidence that you submit or that we obtain 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 your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings

and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

Claimant applied for MA-P benefits based on having left eye blindness and mobility problems. Claimant was hospitalized on December 24, 2009, with strep pneumonia sepsis and DIC complicated by left eye blindness, bilateral panuveitis, lower extremity purpua, and gangrenous toes. By the end of January 2010, Claimant had made significant progress and continued to improve with medical treatment. According to an examination report dated February 16, 2010, Claimant had substantial improvement in her ophthalmological exam per communication with medical source, and her antibiotics for anterior uveitis was stopped due to resolving anterior uveitis in both eyes; and Claimant was referred to vascular surgery to observe gangrene of toes just in case surgical debridement was needed in future. There is no objective medical evidence to establish that Claimant had a severe impairment which met the 1 year duration standard.

Even if the analysis continued, Claimant failed to establish a severe impairment which meets or equals a listed impairment found at 20 CFR, Part 404, Subpart P, Appendix 1.

If the analysis continued to step 4, Claimant would be found not disabled on the basis that the objective medical evidence fails to establish that she was expected to be unable to do her past relevant work for a continuous period of at least one year.

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).

If the analysis continued to the last step of the sequential evaluation, this Administrative Law Judge would find that Claimant was not disabled on the basis that she is able to do at least sedentary work at all times relevant to this matter. Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969. Claimant is considered a younger individual with a limited educational background and at least unskilled to semi-skilled work experience as a fast food restaurant manager. 20 CFR 416.963, 20 CFR 416.964, and 20 CFR 416.968. Using Medical Vocational Rule 201.18 as a guideline, clamant would be considered not disabled. According to this Medical Vocational Rule, a young individual under the age of 50, with a limited educational background, literate and just unskilled work experience, limited to sedentary work, is not disabled.

In conclusion, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the department's MA-P decision is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant did not meet the MA-P disability standard.

Accordingly, the department's MA-P decision is AFFIRMED.

/s/ _____
Marya A. Nelson-Davis
Administrative Law Judge Manager
Michigan Administrative Hearing System
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 1, 2011


Date Mailed: June 1, 2011

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 mailing date of the rehearing decision.

MAND/db

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