

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: 2010-3
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 5, 2009
Ingham County DHS

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 November 5, 2009. Claimant personally appeared and testified. Claimant was represented at the hearing by [REDACTED].

ISSUE

Whether claimant meets the disability criteria 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 December 4, 2008, claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.

(2) On May 4, 2009, the Medical Review Team denied claimant's application stating that claimant could perform other work.

(3) On May 13, 2009, the department caseworker sent claimant notice that her application was denied.

(4) On August 10, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On October 8, 2009, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: The claimant has a history of a cervical fusion and arthritis of the right knee. She has decreased range of motion of the knee, neck, and back with some tenderness. However, she has normal power and tone throughout. Gait was normal but she was using a walker. There was no joint instability. The claimant also has a history of seizures but has not had any since she started on the Tegretol. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform at least unskilled, sedentary work avoiding unprotected heights and dangerous moving machinery. Therefore, based on the claimant's vocational profile of a younger individual, high school education and a history of unskilled and semi-skilled work, MA-P is denied using Vocational Rule 201.27 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.

(6) The hearing was held on November 5, 2009. At the hearing, claimant waived the time periods and requested to submit additional medical information.

(7) Additional medical information was submitted and sent to the State Hearing Review Team on January 21, 2010.

(8) On January 28, 2010, the State Hearing Review Team again denied claimant's application stating that claimant is capable of performing other work in the form of sedentary work per 20 CFR 416.967(a) pursuant to Medical-Vocational Rule 201.19.

(9) Claimant is a 47-year-old woman whose birth date is [REDACTED]. Claimant is 5' 6" tall and weighs 213 pounds. Claimant is a high school graduate and is able to read and write and does have basic math skills. Claimant did attend one year of college.

(10) Claimant last worked in 2002 as a senior lab technician. Claimant has also worked in food prep, as a cashier, as a deli stocker, and doing body trim and wiring at [REDACTED].

(11) Claimant alleges as disabling impairments: anxiety, diverticulitis, right knee problems, seizures, osteoarthritis, gout, swelling in the knees, left-sided weakness, hypertension, depression, and the inability to ambulate without assistive aids.

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).

On January 25, 2010, the Social Security Administration issued a fully favorable decision for claimant. The Social Security Administration determined that the disability onset date for claimant's disability is [REDACTED].

Because of the Social Security Administration determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability. BEM, Item 260. The department is required to initiate a determination of claimant's financial eligibility for the requested benefits, if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically disabled under the Medical Assistance Program as of the December 4, 2008 application date and the three retroactive months of November, October, and September 2008 based upon the Social Security Administration's fully favorable decision.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the December 4, 2008 application and retroactive application, if has not already done so to determine if all other non-medical eligibility criteria are met. The department shall inform the claimant of its determination in writing.

/s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 24, 2010

Date Mailed: February 24, 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.

LYL/vmc

cc:

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