

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: 2010-32685

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 3, 2010

Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 June 3, 2010. Claimant did not appear at the hearing; however, he was assisted by [REDACTED]

ISSUE

Did the department properly deny claimant's May 15, 2009 Medicaid (MA)/retro-MA application based on a finding he lacks a legally disabling condition?

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 May 15, 2009, claimant applied for MA/retro-MA.

(2) On January 22, 2010, the local office denied that application by written notice to claimant's address-of-record with a copy sent to his authorized representative,

[REDACTED]

(3) Claimant's authorized representative filed a timely hearing request to dispute the denial.

(4) On the hearing date (6/03/10), claimant's authorized representative appeared and testified in claimant's absence.

(5) Claimant is a divorced, 38-year-old tobacco abuser (one pack per day) with a high school education who stands 6'0" tall and is medically obese at 296 pounds (BMI=40.1), per the Medical-Social Questionere (DHS-49F) completed at application (Department Exhibit #1, pgs 5, 6, 15 and 17).

(6) Claimant spent two days in the hospital (2/09/09-2/11/09) secondary to a heart attack caused by blocked coronary arteries which required multiple stent placement (Department Exhibit #1, pgs 15-20).

(7) On February 18, 2009, claimant returned to the hospital for another stent placement in his left anterior descending artery (LAD)(Department Exhibit #1, pgs 11 and 12).

(8) No complications or setbacks were noted, and in fact, claimant promptly returned to his truck driving career after a reasonable recovery period.

(9) As of the hearing date, claimant was working approximately 30 hours weekly in this capacity, at [REDACTED] per hour.

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

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 to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

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).

Claimant simply does not qualify for the MA/retro-MA disability coverage he seeks because the medical records and credible hearing testimony fail to establish the existence of a medically severe condition which prevented him from returning to substantial gainful employment for the length of time required under the governing regulations stated above. As such, claimant does not meet even the threshold criteria necessary to qualify for disability-based benefits. His disputed application must remain denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's May 15, 2009 MA/retro-MA application based on a finding he lacks a legally disabling condition.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 10, 2010

Date Mailed: June 10, 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 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.

MBM/db

cc:

