

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg. No.: 2010-40020  
Issue No.: 2009  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 5, 2010  
Macomb County DHS (12)

**ADMINISTRATIVE LAW JUDGE:** Linda Steadley Schwarb

**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 August 5, 2010. Claimant did not appear for the hearing. Claimant's Notice of Hearing has not been returned by the U.S. Post Office as undeliverable. Claimant was represented at the hearing by [REDACTED]. The authorized representative asked that the undersigned Administrative Law Judge make a decision based upon the available medical record.

**ISSUE**

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

**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 February 18, 2010, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to January of 2010.
2. On March 20, 2010, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
3. On May 21, 2010, a hearing request was filed to protest the department's determination.
4. Claimant, age 52, has a high-school education.

5. It was reported that claimant last worked in February of 2009 as a bus driver. Records indicate that claimant had previously engaged in work as a welder and factory worker. Claimant's current work status is unknown.
6. Claimant has a history of cigarette smoking, hypertension, diabetes mellitus, and elevated cholesterol. (Department Exhibit #1, p. 27.)
7. Claimant was hospitalized [REDACTED] following complaints of chest pain. She underwent heart catheterization and was maintained on medication.
8. On [REDACTED], claimant's treating physician, [REDACTED], diagnosed claimant with obesity, diabetes mellitus, chronic low back syndrome; chronic bronchitis, coronary artery disease, and arthritis. (Department Exhibit #1, p. 39.)
9. The hearing record contains no further information as to claimant's current work status and medical condition or symptoms, if any.
10. Claimant's authorized representative has been unable to obtain additional and/or updated medical evidence as well as information as to claimant's work status.

### **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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Federal regulations at 20 CFR 416.913(e) state as follows:

#### **COMPLETENESS**

The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in (a) of this section, information you gave us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind. It must allow us to determine:

1. The nature and severity of your impairment(s) for any period in question;

2. Whether the duration requirement described in Section 416.909 is met, and
3. Your residual functional capacity to do work-related physical and mental activities...

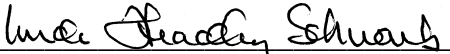
In general, claimant has the responsibility to prove that she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

In this case, there is insufficient medical evidence regarding claimant's current medical condition. Claimant's hospital records from the [REDACTED] admission and [REDACTED] DHS-49 from [REDACTED], are the only medical records contained in the hearing file regarding the period in question. Claimant did not appear for the hearing. Claimant's authorized representative has not been able to obtain additional medical evidence or other documentation from claimant. Apparently, claimant's cooperation could not be secured to assist in obtaining additional, updated medical evidence. Further, there is no information as to claimant's current work status. The undersigned Administrative Law Judge is unable to use the sequential evaluation process to assess claimant's eligibility for program benefits. See 20 CFR 416.920. There is simply insufficient information necessary to assess claimant's eligibility for program benefits. Thus, the record does not support a finding that claimant had or has a disabling condition(s) which prevented or is likely to prevent all substantial gainful activity for the required one-year duration. Accordingly, the department's denial of claimant's application in this matter must be affirmed.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is not “disabled” for purposes of the Medical Assistance program.

Accordingly, the department’s determination in this matter is hereby affirmed.

  
Linda Steadley Schwarb  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 10, 2010

Date Mailed: August 12, 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.

LSS/pf

cc:

