

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-43160
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: December 9, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

AMENDED HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Taylor, Michigan on Thursday, December 9, 2010. The Claimant appeared, along with [REDACTED], and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") benefit 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. The Claimant submitted an application for public assistance seeking Medical Assistance ("MA-P") on June 15, 2010.
2. On June 21, 2010, the Medical Review Team ("MRT") deferred the disability determination requesting additional medical evidence. (Exhibit 1, p. 1)
3. On June 30, 2010, the MRT found the Claimant not disabled. (Exhibit 1, pp. 1, 2)
4. On July 6, 2010, the Department notified the Claimant of the determination.

5. On July 16, 2010, the Department received the Claimant's timely written request for hearing.
6. On July 23, 2010, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 2)
7. The Claimant alleged physical disabling impairments due to back pain, shortness of breath, gallstones, blood clots, fibroid uterus, fatigue, weakness, numbness, headaches, obesity, and anemia.
8. The Claimant has not alleged any mental disabling impairment(s).
9. At the time of hearing, the Claimant was 42 years old with a [REDACTED] date of birth; was 5'10" in height; and weighed 300 pounds.
10. The Claimant is a high school graduate with some college and an employment history cashier, store manager, telemarketer, and children's summer programs coordinator.
11. The Claimant's impairment(s) have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

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 applicants 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) The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6)

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful activity therefore is not ineligible for disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b) An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c) Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b) Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and
6. Dealing with changes in a routine work setting.

Id. The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985) An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985)

In the present case, the Claimant alleges disability due to back pain, shortness of breath, gallstones, blood clots, fibroid uterus, fatigue, weakness, numbness, headaches, obesity, and anemia.

On [REDACTED], the Claimant was admitted to the hospital due to her hemoglobin of 2.2. Numerous transfusions were required to stabilize her hemoglobin at 8.7. The abdominal ultrasound revealed multiple gallstones. Transvaginal ultrasound showed multiple masses consistent with uterine fibroids. Chest x-ray revealed cardiomegaly.

The Claimant was discharged on [REDACTED] with the diagnoses of iron-deficiency anemia, fibroid uterus, cholecystitis, and hypokalemia.

On [REDACTED], the Claimant was diagnosed with prolapsing fibroid and severe anemia. The fibroid needs to be surgically removed.

On [REDACTED], the Claimant presented to the hospital with vaginal bleeding, abdominal pain, shortness of breath, and weakness. The Claimant's history of fibroid uterus, bleeding, and gallstone was noted. Large blood clots were documented as well as the need for a hysterectomy. The pelvic examination revealed a very large submucous fibroid about 6-7 cm in size with moderately heavy bleeding with water blood drainage and small clots. An abdominal ultrasound revealed cholelithiasis with borderline wall thickening. Claimant was found to have severe anemia and required further transfusions to stabilize her hemoglobin.

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the Claimant has presented some medical evidence establishing that she does have some physical limitations on her ability to perform basic work activities. The medical evidence has established that the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The Claimant has alleged physical disabling impairments due to back pain, shortness of breath, gallstones, blood clots, fibroid uterus, fatigue, weakness, numbness, headaches, obesity, and anemia.

Listing 7.00 discusses hematological disorders. An impairment caused by anemia is evaluated according to the ability of the individual to adjust to the reduced oxygen-carrying capacity of the blood. 7.00A Individuals with health cardiovascular systems often tolerate a gradual reduction in red cell mass. *Id.* The chronic nature of the impairment is shown when the condition last for at least 3 months. Listing 7.02 defines chronic anemia. To meet this listing, an individual must show:

- A. One or more blood transfusions on an average of at least once every 2 months; or
- B. A resulting impairment under the criteria for the affected body system.

In this case, the Claimant suffers with severe, chronic anemia. As a result, she underwent multiple transfusions during the May and September hospitalizations. The Claimant's continued heavy bleeding and blood clots are documented as well as the large submucous fibroid (6-7 cm). Physicians note the need for a hysterectomy as soon as possible. The Claimant's other conditions (cardiomyopathy and obesity) are found to further contribute to the Claimant's weakness and fatigue. Ultimately, after review of the entire record, it is found that the Claimant's impairment(s), meet or are the medical equivalent thereof, a listed impairment within 7.00 as detailed above. Accordingly, the Claimant is found disabled at Step 3 with no further analysis required.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Claimant disabled for purposes of the MA-P benefit programs.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall initiate review of the May 26, 2010 application to determine if all other non-medical criteria are met and inform the Claimant and Authorized Representative of the determination in accordance with department policy.
3. The Department shall supplement for any lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.
4. The Department shall review the Claimant's continued eligibility in January 2012 in accordance with department policy.

Colleen M. Mamelka

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

Date Signed: 12/21/2010

Date Mailed: 12/27/2010

2010-43160/CMM

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.

CMM/jlg

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