

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

IN THE MATTER OF:



Reg No: 2010-43295
Issue No: 2006
Case No: [REDACTED]
Hearing Date:
October 28, 2010
Oakland County DHS-02

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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 telephone hearing was held on October 28, 2010. The Claimant appeared and testified. Rosalyn Boyle, Assistance Payments Supervisor appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's MA application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for MA-P in May 2010.
2. The Medical Review Team denied the application on June 23, 2010.
3. Claimant filed a request for hearing on July 2, 2010 disputing the MA denial.
4. A hearing was held on October 28, 2010.

5. Following hearing, Claimant was ordered to undergo a mental status and physical examination.
6. Claimant's file was sent to the State Hearing Review Team.
7. On July 26, 2010, the State Hearing Review Team denied the application because Claimant was capable of performing past work as an administrative assistant.
8. On October 28, 2010, this Administrative Law Judge issued an Interim Order instructing the Department to schedule a physical and mental examination.
9. The Department scheduled four medical appointments for the Claimant to complete the requested examinations.
10. Claimant did not appear for these appointments despite being given assistance for transportation by the Department for the fourth scheduled appointment.

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 (formerly known as the Family Independence Agency) 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.

Pursuant to Department policy, a client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you should deny the application or close the case. BEM 260

Under Social Security Administration regulations, if an individual fails to cooperate by appearing for a physical or mental examination by a certain date without good cause, there will not be a finding of disability. 20 CFR 416.994(b)(4)(ii).

In the present case, Claimant has failed to cooperate by failing to appear for a scheduled medical examination. Pursuant to federal regulation and Department policy her application must be denied. BEM 260, 20 CFR 416.994(b)(4)(ii)

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is NOT DISABLED and, therefore, the Department's denial of her application for Medical Assistance and State Disability Assistance is AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 01/19/11

Date Mailed: 01/21/11

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.

AM/dj

cc:

