

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: 2010-6730

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 19, 2010

Ottawa 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, a telephone hearing was held on January 19, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) eligibility standards?

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 August 6, 2009, claimant applied for MA/retro-MA.
- (2) When the department denied claimant's application she filed a hearing request dated September 10, 2009.
- (3) Claimant's hearing was held on January 19, 2010.

(4) While claimant's appeal was pending, the Social Security Administration (SSA) determined claimant was disabled for Supplemental Security Income (SSI) purposes under their rules, with onset/entitlement as of July 2009.

(5) At hearing, the department provided this Administrative Law Judge with verification of claimant's entitlement and eligibility begin date (Department Exhibit #1, pgs 1-3).

(6) Claimant stipulated on the record at hearing the sole remaining issue in dispute is her eligibility for retro-MA in May and June, 2009, because the federal government's (SSA's) disability approval automatically qualifies her for MA as of July 2009, but not earlier; additionally, their retroactive supplemental payment to claimant (██████████) exceeds the State Disability Assistance (SDA) income limit; consequently, claimant is not eligible for SDA due to excess income.

(7) Claimant is a divorced, 50-year-old, insulin-dependent diabetic who is morbidly obese at 5'5" tall and 265 pounds (BMI=44.1); she is left hand dominant.

(8) In May 2009, claimant was hospitalized with chest pain complaints; consequently, she underwent standard cardiac testing (nuclear perfusion stress/echocardiogram)(Department Exhibit #1, pgs 92 and 93).

(9) Initially, the nuclear perfusion stress test revealed an ejection fraction of 44%, so a follow-up EKG was ordered which turned out to be normal (ejection fraction = 50-55%) (Department Exhibit #1, pgs 87-91 and 100-109).

(10) Claimant was diagnosed with uncontrolled high blood pressure and severe high cholesterol (dyslipidemia) at that time and her corresponding prescription medications were adjusted (Department Exhibit #1, pg 93).

(11) In addition to claimant's cardiac issues, she was diagnosed with fibromyalgia approximately five years ago and diabetic neuropathy with recurrent cellulitis approximately six years ago, per self report.

(12) Claimant is a former smoker now experiencing severe shortness of breath symptoms, for which an [REDACTED] has been prescribed (Department Exhibit #1, pg 82).

(13) Claimant has an unskilled work history but she has remained unemployed since she was severed from her last sedentary bank job four years ago, per self report (Department Exhibit #1, pg 121).

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).

In the present case, the Social Security Administration's (SSA's) disability allowance , received while claimant's appeal was pending, currently establishes she was disabled as of July 2009, but not earlier. However, claimant's credible testimony and the documentary evidence submitted at hearing establish claimant's combined, longstanding physical impairments (insulin-dependent diabetes, diabetic neuropathy, fibromyalgia and chronic obstructive pulmonary disease) existed in the degree of severity necessary to effectively prevent her from engaging in any type of substantial gainful work activity in the only two months remaining in

dispute (May/June 2009) under her August 6, 2009 MA/SDA application. As such, the department's denial of retro-MA in these months cannot stand.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erroneously denied retro-MA to claimant under her August 6, 2009 MA/retro-MA application.

Accordingly, the department's decision is REVERSED and it is Ordered that the department shall process claimant's disputed application and award her all of the benefits she may be entitled to receive as long as she meet the other financial and non-financial requirements necessary to receive them. A medical review of claimant's condition is not necessary in lieu of the SSA allowance.

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

Date Signed: February 9, 2010

Date Mailed: February 11, 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.

2010-6730/mbm

MBM/db

cc:

