

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-10287
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 20, 2011
DHS County: Sanilac

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 in Sandusky, MI, on June 20, 2011. Claimant appeared and testified. Claimant was represented by [REDACTED]. The Department OF Human Services (Department) was represented by [REDACTED].

ISSUE

Whether the Department properly determined 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 December 18, 2009, Claimant applied for MA-P and retro MA-P to September 2009 and a second application on September 28, 2010, with retro back to July 2010.
2. On October 26, 2010, the Medical Review Team denied Claimant's request.
3. On December 6, 2010, Claimant submitted to the Department a request for hearing.
4. The State Hearing and Review Team (SHRT) denied Claimant's request.
5. Claimant is 46 years old.

6. Claimant completed education through high school and is a licensed RN.
7. Claimant has employment experience (last worked September 2010) working as a nurse for [REDACTED] (36 hours a week making approximately \$33 per hour). The job started in July 2010 and she was fired in September 2010. She worked from March 2010 as an RN and was terminated after six weeks of employment. Her prior job was from February 2009 to September 2009. She was fired from the job then rehired beginning October 2009 to February 2010 (40 hours a week for \$26 per hour). She was fired again in February 2010.
8. Claimant suffers from lupus, seizures, rheumatoid arthritis, psychosis, bipolar disorder manic depressive disorder, post traumatic stress distress disorder, anxiety and severe insomnia.
9. On July 14, 2011, the SHRT team, after reviewing new medical submitted for consideration, determined that Claimant was not disabled for purposes of medical benefits.

CONCLUSIONS OF LAW

MA-P 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 administers MA-P 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 Program Reference Manual (RFT).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. 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.

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 are 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.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

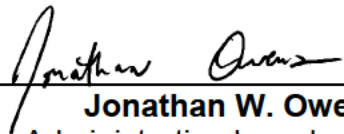
The first factor to be considered is whether the claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). The SGA amount for 2009 for a non blind disabled person was established at \$980 a month and the SGA amount for 2010 for a non blind disabled person was established at \$1,000 a month. In this case, Claimant is not currently working. However, the two applications being considered covered September 2009 through December 2009 and July 2010 through September 2010 time frames. According to the evidence submitted for consideration, Claimant had been working and was working in excess of SGA during both application periods. Claimant was earning at least \$26 an hour for 36-40 hours per week during the timeframes in question and, therefore, earning more than \$980 and \$1,000 in gross income per month. Claimant worked from February 2009 through February 2010, worked 6 weeks beginning March 2010 and again from July 2010 through September 2010.

Therefore, the Claimant is disqualified at this step in the evaluation. The MRT and SHRT decisions properly determined the applications in question. Claimant was capable of and evidence submitted support she was, in fact, working during those application periods.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision is hereby UPHELD.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 11, 2011

Date Mailed: August 12, 2011

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.

JWO/pf

cc:

