

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Wayne County DHS-82

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on April 21, 2011. The Claimant appeared and testified. Claimant's Authorized Hearing Representative [REDACTED] appeared also. The Department was represented by [REDACTED].

ISSUE

Was the Department correct in denying Claimant's MA-P and retroactive MA application?

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 on July 28, 2010.
2. The Medical Review Team denied the application on August 4, 2010.
3. Claimant filed a request for hearing on October 29, 2010 regarding the MA denial.
4. A hearing was held on April 21, 2011.

6. On December 6, 2010 the State Hearing Review Team denied the application because the medical evidence of record does not document a mental/physical impairment that significantly limits the claimant's ability to perform basic work activities.
7. Claimant is 5'4" tall and weighs 208 pounds.
8. Claimant is [REDACTED] of age.
9. Claimant's impairments have been medically diagnosed as diabetes, hypertension, asthma, congestive heart failure, high cholesterol, enlarged left atrial.
10. The Claimant testified she suffers with the following symptoms: fatigue, shortness of breath, headache, swelling and pain in legs.
11. Claimant takes the following prescriptions:
 - a. Nifedin
 - b. Flonase
 - c. Sprivia
 - d. Albuterol
 - e. Symbicort
 - f. Dyazide
12. Claimant completed the 12th grade.
13. Claimant is able to read, write, and perform basic math skills.
14. Claimant is not currently working.
15. Claimant last worked as an assistant hairstylist. The job duties included lifting up to 5 lbs., standing, bending/stooping, grasping. Claimant has worked in the past as a telephone operator.
16. Claimant testified to the following physical limitations:
 - i. Sitting: 45 minutes to 1 hour
 - ii. Standing: 1 hour
 - iii. Walking: 1 block
 - iv. Bend/stoop: limited
 - v. Lifting: 10-15 lbs.
 - vi. Grip/grasp: no limitations
17. Claimant lives with her sister.

18. Claimant testified that she is able to drive, cook and perform some household chores.
19. Claimant testified that she is unable to do yard work or grocery shopping.
20. The Claimant's limitations have lasted for 12 months or more.
21. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
22. Claimant was hospitalized in July 2010 due to swelling of her legs.
23. At hearing the record was extended to allow Claimant to submit updated medical records. Claimant waived timeliness requirements.
24. Claimant submitted updated medical records on September 19, 2011 and those records were considered in this decision.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process for evaluating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following factors:

The first factor to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant is not working. Therefore, the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is whether the severity of the impairment. In order to qualify the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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;
6. Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysis, 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. This Administrative Law Judge finds that the Claimant's medical record does not support a finding that the Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listings 4.02, 4.04, 3.03, 11.14, 12.02 and 14.09 were considered.

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 clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for

a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CRF 416.913. A conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient, without supporting medical evidence, to establish disability. 20 CFR 416.927.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, the Claimant's past employment was as an assistant hair stylist. This would be considered light work. The Claimant's impairments would not prevent her from doing past relevant work. Therefore, Claimant is found not disabled at step 4. Claimant's testimony regarding her limitations and abilities to sit, stand, walk, and lift was not supported by substantial evidence.

DECISION AND ORDER

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

Accordingly, the Department's decision is hereby UPHELD.



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

Date Signed: 9/28/11

Date Mailed: 9/28/11

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 60 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.

AM/ds

■ [REDACTED]