

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. 2011168
Issue No. 2009
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: December 8, 2010
Ingham 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 the claimant's request for a hearing. After due notice, an in-person hearing was held on December 8, 2010. Claimant did not appear at the hearing; however, she was represented by [REDACTED]

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA)/retro-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. In January 2010, claimant was a single, 25-year-old senior at [REDACTED] majoring in English/Creative Writing (Department Exhibit #1, pg 34).
2. Claimant had a fight with her live-in boyfriend that month because he referred to her as being manipulative and uncaring (Department Exhibit #1, pgs 15 and 34).
3. Claimant impulsively took an excessive amount of prescription drugs ([REDACTED]) which resulted in a brief psychiatric hospitalization for stabilization and treatment (Department Exhibit #1, pgs 14-36).

4. Claimant's condition on discharge was stable, with the following observations documented:

...Patient appears to be regrouping at this time. Cognitively, alert and oriented times three. Instant recall 3/3, recent recall 2/3. She acknowledges herself being forgetful. World forwards and backwards without any difficulty. Social security number backwards without any difficulty (Department Exhibit #1, pgs 20 and 21).
5. On March 22, 2010, claimant's authorized representative filed a disability-based MA/retro-MA application on her behalf.
6. If approved, the medical expenses associated with claimant's brief hospitalization would have been covered by MA.
7. Claimant's application was not approved; consequently, her authorized representative filed a hearing request to dispute the department's determination she was not disabled under the applicable rules.
8. Claimant's hearing was held on December 8, 2010.
9. The day before the hearing, claimant spoke with her authorized representative and stated she definitely would not be attending the hearing.
10. As stated, claimant did not attend; however, her authorized representative elected to proceed in her absence.
11. Claimant's authorized representative requested the presiding Administrative Law Judge to confine her decision to the hearing documents of record, which included claimant's January 2010 hospital reports and her updated, outpatient mental health treatment records from [REDACTED] (Department Exhibits #1, #2 and #3).
12. Claimant's outpatient mental health treatment records from May 2010 (four months post hospitalization), note she just recently graduated from [REDACTED] and was doing very well, although she was distressed about not having found a job yet (Department Exhibit #3, pg 4).

13. Claimant's authorized representative had no knowledge about whether or not claimant found work as of the hearing date; however, her May 2010 counseling notes indicate she and her live-in boyfriend were considering moving to Florida to look for work as a fallback plan (Department Exhibit #3, pg 4).
14. Claimant's observed behavior at that time was deemed appropriate in all cognitive/emotional areas (including affect, speech, judgment, mood, thought content, eye contact, appearance, motor function, insight, etc.)(Department Exhibit #3, pg 5).

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).

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

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 to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, 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 416.929.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

Furthermore, it must be noted the law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's physical and/or mental symptoms can be managed to the point where substantial gainful employment can be achieved, a finding of not disabled must be rendered. Claimant's psychotropic medications as of May 2010 appeared fully capable of stabilizing her mood to the degree necessary for her to continue her job search upon successful college graduation.

As such, claimant does not qualify for the MA/retro-MA disability coverage her authorized representative seeks because he has not established the existence of any severe physical or mental impairment that would prevent her from engaging in gainful employment. Claimant did not appear at the hearing, and thus, she was unavailable for sworn testimony about her condition or her symptoms to date. Furthermore, her outpatient mental health counseling notes from May 2010 paint a picture of a fully stabilized individual. In short, absolutely nothing in this file establishes claimant is physically, mentally or emotionally incapable of working in a wide variety of unskilled jobs currently existing in the national economy. Therefore, claimant's March 22, 2010 MA/retro-MA application must remain denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled by MA eligibility standards.

Accordingly, the department's decision is AFFIRMED.

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

Date Signed: December 27, 2010

Date Mailed: December 27, 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.

MBM/db

cc:

