

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

IN THE MATTER OF: Reg

Issue

[REDACTED]

Hearing
May

Wayne

No: 2011-20566

No: 2009

Case No: [REDACTED]

Date:

23, 2011

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 May 23, 2011. The Claimant appeared along with her advocate [REDACTED] through [REDACTED] and testified. [REDACTED] Medical Contact Worker appeared on behalf of the Department.

ISSUE

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

FINDINGS OF FACT

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

1. Claimant applied for MA-P on October 28, 2010.
2. The Medical Review Team denied the application on December 3, 2010.
3. Claimant filed a request for hearing on February 16, 2011 regarding the MA denial.
4. A hearing was held on May 23, 2011.
5. On March 10, 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.

6. New medical information was submitted back the State Hearing Review team following hearing on May 24, 2011.

7. On June 22, 2011 the State Hearing Review Team denied the application because Claimant's condition is improving or is expected to improve within 12 months of onset or from the date of surgery.

9. Claimant is 5'0" tall and weighs 130 pounds.

10. Claimant is 42 years of age.

11. Claimant's impairments have been medically diagnosed as liver failure, bronchitis, anemia, gout respiratory failure, and diastolic heart failure.

12. Claimant completed the 6th grade.

13. Claimant is able to read, write, and perform basic math skills with difficulty.

14. Claimant is not currently working.

15. Claimant last worked as a janitor and also worked as a housekeeper. These jobs would be considered light exertional.

16. Claimant lives with friends.

17. Claimant testified that she cannot perform most household chores.

18. The Claimant's limitations have not lasted for 12 months or more.

19. Claimant takes the following prescribed medications

- a. Predizone
- b. Ventolin
- c. Symbicort
- d. Albuterol
- e. Plaquenil
- f. Lisinipril
- g. Zocor

20. Claimant was hospitalized in October 2010 and November 2010.

21. Claimant testified to the following physical limitations:

- i. Sitting: 1 hour
- ii. Standing: 5-10 minutes
- iii. Walking: ½ block
- iv. Bend/stoop: difficulty
- v. Lifting: 5 lbs.
- vi. Grip/grasp: no limitations
- vii.

22. Claimant smokes cigarettes, drinks alcohol, and has a history of cocaine use.

CONCLUSIONS OF LAW

The Medical Assistance (MA-P) 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 administers the MA-P 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 CFR 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 considered 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 at 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; and
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, 7.02, and 5.05, 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 CFR 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 a janitor and a housekeeper. Working as a janitor or a housekeeper would be considered light work. The Claimant's impairments would not prevent her from doing past relevant work. Therefore Claimant is not disabled. The medical records support a finding that Claimant is capable of performing her past relevant work at the light exertional level. In addition, the medical records show that Claimant has showed steady improvement since her hospitalization. With continue steady improvement, Claimant clearly will be capable of performing her past relevant work within 12 months of her hospitalization. Claimant's assessments at hearing regarding her physical capabilities in terms of sitting, standing, and walking are not supported by the medical evidence in the record.

DECISION AND ORDER

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

Accordingly, the Department decision to deny MA is hereby UPHELD.

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

Date Signed: July 11, 2011

Date Mailed: July 11, 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 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.

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Wayne County DHS (82)

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A. McClintic

Administrative

Hearings