

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

IN THE MATTER OF:

Issue

[REDACTED]

Oakland

Case

April

Reg No: 2011-3318

No: 2009

No: [REDACTED]

Hearing Date:

18, 2011

County DHS-04

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 18, 2011. The Claimant appeared and testified along with her authorized hearings representative [REDACTED] through [REDACTED]. [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, 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 12, 2010.
3. Claimant filed a request for hearing on October 19, 2010 regarding the MA denial.
4. A hearing was held on April 18, 2011.
5. On November 17, 2010 the State Hearing Review Team denied the application because the Claimant's conditions have improved with treatment and are expected to continue to improve and not prevent all

work for 12 months from the date of onset or from the date of surgery. The Claimant retains the capacity to perform a wide range of work.

6. Claimant is 5'4" tall and weighs 106 pounds.
7. Claimant is 40 years of age.
8. Claimant's impairments have been medically diagnosed as Femoropatellar syndrome, COPD and collapsed lung.
9. Claimant has the following symptoms: shortness of breath, dizziness, light headedness, and knee pain.
10. Claimant completed high school.
11. Claimant is able to read, and perform basic math skills.
12. Claimant is not currently working.
13. Claimant last worked doing in home care. Claimant previously worked at a car parts factory, at restaurants, at grocery stores.
14. Claimant lives with her boyfriend.
15. Claimant testified that she cannot perform some household chores.
16. The Claimant's limitations have lasted for 12 months or more.
17. Claimant takes the following prescribed medications
 - a. Spiriva
 - b. Pretizone
 - c. Albuterol inhaler
 - d. Motrin
21. Claimant testified to the following physical limitations:
 - i. Sitting: 1 hour
 - ii. Standing: 20 minutes
 - iii. Walking: 1 block
 - iv. Bend/stoop: no limitations
 - v. Lifting: 10 lbs.
 - vi. Grip/grasp: none with right hand
22. Claimant is right handed.

23. An MRI on Claimant's left knee from March 2011 showed "Mild increased signal seen within the quadriceps tendon at the patella insertion which may be secondary to tendinopathy. 2. No definite evidence of meniscal tear. 3. Small joint effusion.
24. An MRI on Claimant's right knee from March 2011 showed Mild increased signal seen within the quadriceps tendon at the patella insertion which may be secondary to tendinopathy. 2. Minimal increased signal seen within the anterior cruciate ligament which could represent sprain. 3. Small joint effusion. 4. No definite evidence of meniscal tear.
25. In a Medical Examination Report completed by Claimant's treating physician Dr. [REDACTED] Claimant's condition is found to be "improving" with "no limitations" checked under physical limitations.

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Bridges Reference Manual (PRM).

The Department conforms to state statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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

Federal regulations require that the department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

...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.

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 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 1.01, and 3.02, 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 home care provider. Home care provider 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 Examination Report completed by [REDACTED] on May 4, 2011 supports a finding that Claimant is capable of performing her past relevant work at the light exertional level. This reports states that Claimant is improving and under physical limitations the box is checked for no limitations. Claimant has showed improvement since her hospitalization and clearly her treating physician believes she is capable of performing her previous work. The MRI completed on Claimant's knee shows some problems but nothing substantial enough to preclude Claimant from performing her previous work. Claimant's testimony regarding the severity or her physical limitations is not supported by her medical records.

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 and SDA is hereby UPHELD.

Aaron Administrative for Department	 _____ McClintic Law Judge Maura Corrigan, Director of Human Services
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2011-3318/AM

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.

AM/ctl

cc:

[REDACTED]

Oakland County DHS (04)

[REDACTED]

[REDACTED]

A.

McClintic

Administrative

Hearings