

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201114446

Issue No: 2009/4031

[REDACTED] [REDACTED]
Hearing Date: May 5, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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, a telephone hearing was held on May 11, 2011. Claimant personally appeared and testified.

ISSUE

Did the department properly determine that Claimant did not meet the disability standard for Medical Assistance based on disability (MA-P) and State Disability Assistance (SDA)?

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 August 26, 2009, Claimant applied for MA-P retro to May 2009.
2. On January 15, 2010, the Medical Review Team (MRT) determined that Claimant was not eligible for MA-P benefits.
3. On March 24, 2010, the Department notified Claimant that she was denied MA-P benefits.
4. On April 8, 2010, the Department received Claimant's hearing request, protesting the denial of MA-P benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P benefits and determined that Claimant did not meet the eligibility criteria for SDA benefits.

6. Claimant applied for disability benefits based on having an anxiety disorder, right knee problems diverticulitis, irritable bowel syndrome, high blood pressure, diabetes, and pancreatitis.
7. Claimant has a history of alcohol abuse, heavy tobacco abuse, diabetes mellitus, and hypertension.
8. On October 26, 2009, Claimant was admitted to the hospital due to abdominal pain, vomiting; and it was noted that Claimant had stopped drinking alcohol two days prior to admission to the hospital and was complaining of cold sweats and chills. (Department Exhibit 1, p. 4)
9. During Claimant's hospitalization in October 2009, Claimant underwent a CT which revealed pancreatitis versus alcohol withdrawal; her chest x-ray and ultrasound did not reveal any significant abnormalities; and she was discharged from the hospital on October 28, two days after admission, in stable condition. (Department Exhibit 1, pp. 13-15)
10. On August 11, 2009, Claimant was admitted to the hospital due to complaints of abdominal pain, and it was noted that she had not seen her primary care physician in over a year; she had no insurance; and she had not been taking her insulin for diabetes.
11. Claimant was treated in the hospital in August 2009, and discharged on August 13, 2009 with a diagnosis of acute pancreatitis secondary to alcohol abuse. (Exhibit 1, pp. 32-53)
12. On April 17, 2008, Claimant was admitted to the hospital due to left-sided chest pain and alcohol intoxication with a history of chronic alcohol abuse and discharged from the hospital that same day in stable condition.
13. Claimant is a 50 year-old female with an 11th grade education and unskilled work experience.
14. Claimant was not engaged in substantial gainful activity at any time relevant to this matter.

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Current legislative amendments to the Act delineate eligibility criteria as implemented by agency policy set forth in program manuals.

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 exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (b) A person with a physical or mental impairment which meets federal SSI 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.

“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

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).

3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...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).

...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).

...Evidence that you submit or that we obtain 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 your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

Claimant would not be disqualified under step 1 because she was not engaged in SGA at any time relevant to this matter.

This Administrative Law Judge finds that Claimant should be disqualified at step 2. In this case, the evidence on the record establishes that Claimant's primary impairment is alcohol abuse and her medical condition is related to her chronic alcohol abuse. (20 CFR 416.935) Claimant has been admitted to hospital several times with a diagnosis of acute pancreatitis secondary to alcohol abuse. In October 2009, she was admitted to the hospital for 2 days after complaining of abdominal pain, vomiting, cold sweats and chills. Two days prior to admission, Claimant had reportedly stopped drinking alcohol. Claimant was diagnosed with pancreatitis versus alcohol withdrawal. In August 2009, Claimant was admitted to the hospital for two days and diagnosed with acute pancreatitis secondary to alcohol abuse. It was also noted that she had not seen her primary care physician in over a year, she had no insurance, and she had not been taking her insulin for diabetes. In April 2008, Claimant was admitted to the hospital due to left-sided chest pain and alcohol intoxication; and she was discharged in stable condition that same day in stable condition.

The federal law does not permit a finding of disability for persons whose primary impairment is substance or alcohol abuse. P.L. 104-121. In addition, a client must follow prescribed medical treatment in order to be eligible for disability benefits. If prescribed medical treatment is not followed, the client cannot meet the disability standard. 20 CFR 416.930. Claimant failed to establish that she would continue to have a severe physical or mental impairment that meets the MA-P and SDA duration standard if she stopped drinking alcohol and complied with prescribed medical treatment. As for Claimant's reported problems with her knees and bipolar disorder, there's no objective medical evidence from a qualified medical source to establish that she has any other severe physical or mental impairment that meets the MA-P and SDA duration standard. Accordingly, the Department's MA-P and SDA decision is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined that Claimant did not meet the MA-P and SDA disability standard.

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Accordingly, the department's MA-P and SDA decision is AFFIRMED.

/s/
Marya A. Nelson-Davis
Administrative Law Judge Manager
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 13, 2011

Date Mailed: October 13, 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 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.

MAND/db

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