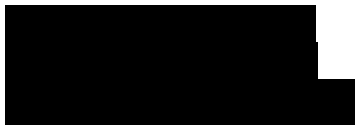


MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201140306
Issue No: 2009
Case No: [REDACTED]
Hearing Date: September 28, 2011
Kalamazoo 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 September 28, 2011.

ISSUE

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

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 April 1, 2011, Claimant applied for MA-P benefits retro to January 2011.
2. On May 13, 2011, the Medical Review Team (MRT) denied Claimant's request for MA-P benefits. (Department Exhibit 1, p. 57)
3. On May 19, 2011, the Department notified Claimant that she was denied MA-P benefits.
4. On May 31, 2011, 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.

6. Claimant applied for disability benefits based on having thyroid problems and anemia. (Department Exhibit 1, p. 59)
7. Claimant was hospitalized from January 5 to January 8, 2011, after being admitted due to complaints of abdominal pain, diarrhea, hypothyroidism, and anemia; Claimant had significant anemia with iron deficiency, and her CT scan reveal Crohn's disease; and Claimant underwent successful medical treatment and was discharged from the hospital in good condition on January 8, 2011. (Department Exhibit 1, p. 16)
9. Claimant's discharge instructions in January 2011 were activities as tolerated, and a low residual diet. (Department Exhibit 1, p. 17)
10. Claimant is a [REDACTED] female with a high school education and unskilled work experience.
11. Claimant was not engaged in substantial gainful activity at the time she applied for MA-P benefits.

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).

"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).

Claimant testified that she has a job prepping food for a food service company. Claimant reported that she has been doing this job since August of 1995. (Department Exhibit 1, p. 10) Claimant testified that she was not working from March 30, 2011 through May 31, 2011, due to her severe impairment. Claimant testified that she works 30 hours per week at [REDACTED] per hour. A non-blind individual who is earning on average [REDACTED] per month for the year 2011 is considered to be engaging in substantial gainful activity (SGA). SGA is work activity that involves doing significant physical or mental activities and may be substantial even if it is done on a part-time basis, or if you do less, get paid less, or have less responsibility than when you worked before. 20 CFR 416.972 and 20 CFR 416.974(b) This Administrative Law Judge finds that Claimant is engaged in SGA and would be disqualified at step 1. However, since she was not engaged in SGA at the time of application, the analysis will continue.

...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 be disqualified at step 2 on the basis that she failed to establish that she had severe impairment which meets the 1 year duration requirement. Claimant applied for MA-P benefits based on having thyroid problems and anemia. Claimant was hospitalized in January 2011 for 3 days and diagnosed with Crohn's disease. Claimant underwent successful medical treatment and was discharged from the hospital in good condition. According to Claimant, she was unable to work at her past relevant job for two months due to her severe impairment. The objective medical evidence on the record establishes that Claimant's medical condition was expected to improve within 12 months from the date of onset. Claimant testified that she is expected to undergo surgery, an ileostomy reversal, in January 2012. However, the fact that Claimant is expected to under go surgery does not establish that she has a severe physical impairment that meets the 1- year duration standard.

Even if the analysis continued, Claimant would be disqualified at Step 3. Claimant failed to establish that she has a severe impairment which meets or equals a listed impairment found at 20 CFR, Part 404, Subpart P Appendix 1.

Claimant would be disqualified at Step 4 on the basis that she has been able to return to her past relevant work.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

At the last step of the sequential evaluation, Claimant would again be disqualified on the basis that she should be able to do at least sedentary work. At application, Claimant completed an Activities of Daily Living form, indicating that she is able to do the following: fix her own meals; do household chores, which include laundry, cleaning her room, vacuuming, leaning the bathroom, washing dishes, and shopping for food and clothing; driving; and going to the movies, concerts, and sporting events. Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, and Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969. Claimant is considered a younger individual with a high school education and unskilled work experience. 20 CFR 416.963, 20 CFR 416.964, and 20 CFR 416.968. Using Medical Vocational

Rule 201.27 as a guideline, Claimant would be considered not disabled. According to this Medical Vocational Rule, a young individual, under the age of 40, with a high school education and unskilled work experience, limited to sedentary work, is not disabled.

In conclusion, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the department's MA-P 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 disability standard.

Accordingly, the department's MA-P decision is affirmed.

/s/

Marya Nelson-Davis
Administrative Law Judge Manager
Michigan Administrative Hearing System
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/9/11

Date Signed: 12/9/11

MAND/ds

