STATE OF MICHIGAN

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



IN THE MATTER OF THE CLA

Reg No.: 2012-29634

Issue No.: 2009

Case No.:

Hearing Date: May 10, 2012 Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Detroit, Michigan on Thursday, May 10, 2012. The Claimant appeared and testified. The Claimant was represented by

Human Services ("Department").

appeared on behalf of the Department of

ISSUE

Whether the Department properly found the Claimant not disabled for purposes of the Medical Assistance ("MA-P") benefit program?

FINDINGS OF FACT

The Administrative Law Judge, based on t he competent, material, and substantial evidence on the whole record, finds as material fact:

- The Claimant submitt ed an application for public assistance seeking MA-P benefits on September 14, 2011.
- 2. On September 27, 2011, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit 1, pp. 1, 2)
- 3. The Department notified the Claimant of the MRT determination on October 3, 2011. (Exhibit 3)

- 4. On January 31, 2012, the Department received the Claimant's timely written request for hearing. (Exhibit 4)
- 5. On March 2, 2012, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 5)
- 6. At the time of hearing, the Claim ant was years old with an birth date; was 5'6½" in height; and weighed 234 pounds.
- 7. Over the last 5 years, the Claim ant works on a c ontingency basis earning more than \$1,010.00 in gross monthly earnings.

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administe red by the Department of Human Services, formerly known as the Family Independence Agency, pursuant to MCL 400.10 et seq. and MCL 400.105. Department policies are found in the Bridge's Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental im pairment which can be expected to result in death or which has lasted or can be expect ed to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). The person claiming a physical or mental disability has the burden to esta blish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinica l/laboratory findings, diagnosis/prescri bed treatment, prognosis for recovery and/or medical assessment of ability to do work-related ac tivities o r ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 416.913. An individual's subjective pain com plaints ar e not, in and of themselves, sufficient to establish disab ility. 20 CF R 416.908; 2 0 CFR 4 16.929(a) Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be

assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to cons ider an individual's current work activit y; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to det ermine whether an individual can perform past relev ant work; and residual functional capacity along with vocational factors (i .e. age, education, and work experienc e) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual candod espite the limitations based on all relevant evidence. 20 CFR 416.945(a)(1). An individual's residual functional capacity assessment is evaluated at both steps four and five. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv).

In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not signific antly limit an in dividual's physica I or mental ability to do basic wor k activities . 20 CFR 416.921(a). An individual is not disabled regardless of the medical condition, age, education, and work experience, if the i ndividual is working and the work is a substantial, gainful activity. 20 CFR 416.920(a)(4)(i). Substantial gainful activity means work that involves doing significant and productive physical or mental duties and is done (or intended) for pay or profit. 20 CF R 416.910(a)(b). Substantial gainful activity is work activity that is both substantial a nd gainful. 20 CFR 416.972. Work may be substantial even if it is done on a part-time basis or if an in dividual does less, with less responsibility, and gets paid less than prior employment. 20 CFR 416.972(a). Gainful work activity is work activity that is done for pay or profit. 20 CFR 416.972(b). For 2011, the substantial gainful ac tivity income level was \$1,000.00 and f or 2012, it is \$1.010.00/month.

In this case, the Claimant has worked on a contingency basis over the last 5 years earning over the substantial gai nful activity level establis hed by the Social Security

Administration. In light of the foregoing, it is found that the Claimant is engaged in a substantial gainful activity and, thus, she is found ineligible for disability benefits at Step 1 with no further analysis required.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Claimant not disabled for purposes of the MA-P benefit program.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 18, 2012

Date Mailed: May 18, 2012

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,

- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Re consideration/Rehearing Request P. O. Box 30639

Lansing, Michigan 48909-07322

CMM/cl

cc: