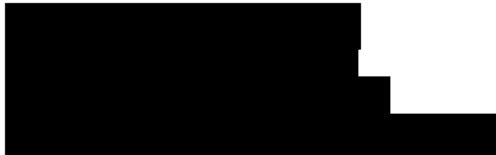


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20124712
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: January 5, 2012
Chippewa County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 January 5, 2012.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P), retro MA and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. The Claimant did not participate in the hearing process.
2. On March 1, 2010, the Claimant was treated for an umbilical hernia. (Department Exhibit B, pp. 794-798).
3. Sometime prior to September 23, 2010, the Claimant received treatment for detoxification. (Department Exhibit B, pp. 100, 886).
4. Between 2010 and 2011, the Claimant's treating medical professionals were suspicious the Claimant was drug seeking. Between 2010 and 2011, the Claimant was verbally abusive towards her treating medical professionals for refusing to provide prescriptions for pain medication. (Department Exhibit B, pp. 12, 833, 880, 882, 897).

5. On November 10, 2010, [REDACTED] indicated in a letter to [REDACTED], that she thought the Claimant was not truly taking the antibiotics and following the appropriate treatment plan for treating the wound. Dr. Rechner also indicated, the Claimant may have some type of secondary gain by not treating the wound so as to continue with pain management. (Department Exhibit B, pp. 826, 827, 895).
6. On February 1, 2011, [REDACTED] examined the patient. [REDACTED] found the Claimant's physical condition to be within normal limits. (Department Exhibit B, pp. 904, 905).
7. On February 4, 2011, the Claimant submitted an application for public assistance seeking MA-P, retro MA and SDA benefits. The Claimant alleged a hernia as being her impairment. (Department Exhibit B, pp. 821, 819).
8. On April 6, 2011, the Medical Review Team (MRT) deferred the Claimant to obtain additional medical evidence.
9. On June 11, 2011, the Claimant passed away as a result of acute respiratory distress syndrome and narcotic intoxication. (Department Exhibit B, p. 928). The Claimant passed away before she was able to submit for a psychological evaluation as requested by MRT.
10. On September 6, 2011, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit B, p. 926).
11. On or around September 26, 2011, the Department notified the Claimant of the MRT determination. (Department Exhibit B, pp. 929-933, 936).
12. On October 4, 2011, the Department received the Claimant's timely written request for a hearing.
13. On December 2, 2011, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Department Exhibit A, pp. 1, 2).

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 administered 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

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(a). 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 his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(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 applicant 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 consider an individual's current work activity; 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 determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) 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 can do despite the limitations based on all relevant evidence. 20 CFR 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 significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). An individual is not disabled regardless of the medical condition, age, education, and work experience, if the individual 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 CFR 416.910(a)(b). Substantial gainful activity is work activity that is both substantial and gainful. 20 CFR 416.972. Work may be substantial even if it is done on a part-time basis or if an individual 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)

In the record presented, the Claimant did not appear. Accordingly, the Claimant's current employment status, ability to work, and/or attempts of work is unknown. Under these facts, the Claimant cannot be found disabled for purposes of the MA-P program. In addition, the medical records in the file do not demonstrate a disabling impairment and the cause of death was not caused by a chronic illness. I find it worth noting, that although there were complications with the Claimant's hernia healing, there were questions raised by her treating physicians about whether the Claimant was following the recommendations for treatment. In addition, the medical records indicated a number of references from medical professional's who suspected drug seeking behavior and prescription drug abuse issues. Furthermore, the Claimant's condition prior to her death would not have been considered severe. Accordingly, the Claimant is found not disabled and, thus, ineligible at Step 1 with no further analysis required.

Additionally, the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant was not eligible to receive Medical Assistance and/or State Disability Assistance.

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, retro MA and SDA benefit program.

Accordingly, it is ORDERED:

The Department's determination is **AFFIRMED**.

/s/ _____
Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 11, 2012

Date Mailed: January 12, 2012

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 mailing 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.

CAA/cr

cc:

