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

IN THE MATTER OF:



Reg. No.: 2014-3162 Issue No(s).: 2009

Case No.:

Hearing Date: February 12, 2014

County: Jackson

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

Following Claimant's r equest for a hearing, this matter is before the undersigned Administrative Law J udge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 t o 431.250; and 45 CF R 205.10. After due notice, a telephon e hearing was held on February 12, 2014, from Lansing, Michigan. Claimant, accompanied by her father, appeared and testified. Participants on behalf of the D epartment of Human Services (Department) include d Elig ibility Specia list and Family Independe nce Manager

ISSUE

Did the Department pr operly deny Claimant's Medical Assistance (MA) and Retro-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. On March 15, 2013, Claimant f iled an application for MA/R etro-MA benefits alleging disability.
- 2. On September 26, 2013, the M edical Review T eam (MR T) denied Claimant's application for MA/Retro-MA indicatin g s he was capable of performing past relevant work. (Depart Ex. A, pp 44-45).
- 3. On October 1, 2013, the department ca seworker sent Claimant notice that her application for MA/Retro-MA had been denied.
- 4. On October 8, 2013, Cla imant filed a request for a hearing to contest the department's negative action.

- 5. On November 26, 2013, the State Hearing Revi ew Team (SHRT) found Claimant was not disabled and retained the capac ity to perform her past relevant work. (Depart Ex. B, pp 1-2).
- 6. Claimant was appealing the denial of Social Securi ty disability benefits at the time of the hearing.
- 7. Claimant is a 26 year old woman whos e birthday is Claimant is 5'3" tall and weighs 200 lbs.



- 8. Claimant does not have an alcohol, drug or nicotine problem.
- 9. Claimant does have a driver's license and is able to drive.
- 10. Claimant has a high school education.
- 11. Claimant is not currently working. Claimant last worked in February, 2013.
- 12. Claimant alleges disability on the basis of Crohn's disease, lupus, hernia in her esophagus, gastroesophageal reflux disease (GERD), pancreatitis, arthropathy, depression, anxiety, a fist ula and she is currently undergoing testing for multiple sclerosis.
- 13. Claimant's impairments have lasted, or are expected to last, continuous ly for a period of twelve months or longer.
- 14. Claimant's complaints and allegat ions concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful a ctivity on a regular and continuing basis.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

In order to receive MA benefits based upon disa bility or blindness, claimant must be disabled or blind as defined in T itle XVI of the Social Security Act (20 CFR 416.901). DHS, 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. Mi chigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"Disability" is:

... the inability to do any subs tantial gainful activ ity by reason of any medically dete rminable physical or mental impairment which c an be expect ed to result in death or which has lasted or can be expect ted to last for a continuous period of not less than 12 months. 20 CFR 416.905.

The federal regulations require that several considerations be analyzed in sequential order:

... We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further. 20 CF R 416.920.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

- 1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not dis abled regardless of your medical condition or your age, education, and work experienc e. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
- 2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in deat h? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.909(c).
- 3. Does the impairment appear on a special Listing of Impairments or are the clie nt's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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 analys is continues to Step 5. Sections 200.00-204.00(f)?

5. Does the client hav e the Residual Func tional 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? This step consider s the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is a pproved. 20 CFR 416.920(g).

At application Claimant has the burden of proof pursuant to:

... You must provide medical evidence showing that you have an im pairment(s) and how seve re it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

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 ultrasounds, X-rays);
- (4) Diagnosis (statement of di sease or injury based on its signs and symptoms). 20 CFR 416.913(b).

Statements about your pain or other symptoms will not al one establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment. 20 CFR 416.929(a). 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).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e). You can only be found dis abled 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 demons trable by medically acceptable clinical and laboratory diagnostic techniques. 20 CFR 416.927(a)(1).

Applying the sequential analys is herein, Claimant is not ine ligible at the first step as Claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a de min imus standard. Ruling a ny ambiguities in Claimant's favor, this Administrative Law Judge (ALJ) finds that Claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analys is continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by Claimant in the past. 20 CFR 416.920(f). In this case, this ALJ finds that Claimant cannot return to past relevant work on the bas is of the medical evidence. The analysis continues.

The fifth and final step of the analysis applie s the biographical data of the applic ant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). See *Felton v DSS* 161 Mich. App 690, 696 (1987). Once Claimant reaches Step 5 in the sequential review process, Claimant has already established a *prima facie* case of disability. *Richardson v Secretary of Health and Hum an Services*, 735 F2d 962 (6 th Cir, 1984). At that point, the burden of proof is on the state to prove by substant ial evidence that Claim ant has the residual functional capacity for substantial gainful activity.

The medic al information indic ates that Claim ant suffers from Crohn's dis ease, lupus, hernia in her esophagus, gastroesophageal re flux disease (GERD), pancreatitis, arthropathy, depression, anxiety, a fistula a nd she is currently undergoing testing for multiple sclerosis.

Claimant testified cre dibly that she has a limited tolerance fo r physical activities and is unable to stand or sit for lengthy periods of time. C laimant has trouble with her right lower leg and some days she is unable to move it. She has problems lifting her legs to get in and out of the tub to shower. She is experiencing equilibrium issues, achy joints, swelling in her hands and feet. She also has trouble walking, getting dressed, getting in and out of bed and br ushing her hair. She has days when s he is unable to leav e the house due to being in the bathroom.

Claimant is 26 years old, with a high school education. Cla imant's medical records are consistent with her testimony that she is unable to engage in even a full range of sedentary work on a regular and continuing basis. 20 CFR 404, Subpart P. Appendix 11, Section 201.00(h). See So cial Security Ruling 83-10; *Wilson v Heckler*, 743 F2d 216 (1986).

The Department has failed to provide vocational e vidence which establishes that Claimant has the residual func tional capacity for substantia I gainful activity and that given Claimant's age, education, and work experience, there are significant numbers of jobs in the national economy which Clai mant could perform despite Claimant's limitations. Accordingly, this Administrative Law Judge concludes Claimant is disabled for purposes of the MA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA eligibility purposes.

Accordingly, the department's decision is **REVERSED**, and it is ORDERED that:

- 1. The department shall process Claim ant's March 15, 2013, MA/Retro-MA application, and s hall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
- 2. The department shall rev iew Claimant's medica I cond ition for improvement in March, 2015, unless her Social Sec urity Administration disability status is approved by that time.
- 3. The department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.

It is SO ORDERED.

Vicki L. Armstrong Administrative Law Judge for Maura D. Corrigan, Director Department of Human Services

Date Signed: March 3, 2014

Date Mailed: March 3, 2014

NOTICE OF APPE AL: The Claimant may appeal the De cision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, i f a timely Request for Rehearing or Reconsiderati on was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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 or der 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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly disc overed evidence that existed at the time of the or iginal hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the clai mant must specify all reas ons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings Reconsideration/Rehearing Request P.O. Box 30639 Lansing, Michigan 48909-07322

VLA/las

cc: