

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]
Claimant

Reg. No: 2007-17421
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 26, 2007
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an in-person hearing was held in Lansing, Michigan. Claimant was represented by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) 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 4/23/07, claimant applied for MA-P with the Michigan DHS.
- (2) Claimant applied for three months of retro MA.
- (3) On 5/9/07, the MRT denied.
- (4) On 5/14/07, the DHS issued notice.

- (5) On 5/30/07, claimant filed a hearing request.
- (6) Claimant has an SSI application pending with the Social Security Administration (SSA).
- (7) On 8/23/07, the State Hearing Review Team (SHRT) denied claimant. Pursuant to claimant's request to hold the record open for the submission of new and additional medical documentation, on 6/5/08 SHRT once again denied claimant. The undersigned Administrative Law Judge was on an extended leave of absence from 8/1/08, returning full time 2/1/09. None of the Administrative Law Judge's pending cases were reassigned while on leave; no protected time afforded before or after leave for issuing decisions.
- (8) As of the date of application, claimant was a 52-year-old male standing 5' 5" tall and weighing 160 pounds. Claimant has a 10th grade education.
- (9) Claimant does not have an alcohol/drug abuse problem or history. Claimant smokes approximately ½ pack of cigarettes per day. Claimant has a nicotine addiction.
- (10) Claimant does not have a driver's license due to it being suspended for driving without a CDL license.
- (11) Claimant is not currently working. Claimant worked until March of 2007 in construction building houses. Prior to that time, claimant drained septic tanks and dug basements. At that time, claimant had a Workmen's' Comp settlement. Prior to that, claimant worked as a machinist.
- (12) Claimant alleges disability due to a heart attack.
- (13) The 8/23/07 SHRT findings and conclusions of its decision are adopted and incorporated by reference herein.
- (14) The 6/5/08 subsequent SHRT decision is adopted and incorporated by reference herein.

(15) A 4/5/07 DHS-49 indicates coronary artery disease, status post MI and mild cardiomyopathy. No abnormal findings. Exhibit 24. Doctor indicates temporarily disabled until about 6/1/07. Exhibit 25.

(16) On 5/25/07, claimant had an exercise treadmill test to 7 METS with no EKG evidence of myocardial ischemia and no chest pain. Cardiolute showed normal wall motion and ejection fraction and no ischemia or infarction.

(17) A 6/20/07 consult exam shows claimant had some chest pain which appeared to be atypical. No evidence of congestive heart failure on exam.

(18) New medical documentation includes an FIA-49 completed 10/07 by cardiologist indicating claimant could lift up to 34 pounds. Physician did not believe limitations would last 90 days or more. Claimant noted to be Class I functional level and Class B therapeutic classification on the New York Heart Classification.

(19) New and old medical evidence indicates claimant is able to do light work based upon medical functional limitations and abilities.

(20) Claimant testified at the administrative hearing that he could only sit 5 to 10 minutes. Claimant remained seated throughout the administrative hearing, which lasted over one half hour.

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).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title 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. Michigan 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 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.

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 CFR 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 disabled regardless of your medical condition or your age, education, and work experience. 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 death? 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 client'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 analysis continues to Step 5. Sections 200.00-204.00(f)?
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? This step considers 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 approved. 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 impairment(s) and how severe 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 sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone 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).

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).

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 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).

Applying the sequential analysis herein, claimant is not ineligible 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 severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any 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 analysis 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 can return to certain types of previous work and not others. Specifically, the medical evidence does not indicate that claimant would be precluded from returning to machinist work. Claimant worked as a machinist during the relevant time period, which is examined under the federal and state laws. However, claimant's more recent past relevant work involves heavy construction and draining septic tanks. In light of this, this ALJ will continue the analysis.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge concurs with the State Hearing Review Team Decisions of 8/23/07 and 6/5/08, which find claimant not eligible for statutory disability on the

basis of Medical Vocational Grid Rule 202.10 as a guide. In reaching this conclusion, it is noted that medical evidence as a whole does not find claimant's medical problems interfering with claimant's ability to engage in light work. Taken as a whole, claimant's complaints regarding pain and symptoms do not meet the sufficiency requirements under the federal statute and the state law pursuant to those requirements found at 20 CFR 416.913 and 20 CFR 416.929. Claimant has the burden of proof per 20 CFR 416.912. The medical evidence herein taken as a whole indicates that claimant can do light work and thus, the department's denial must be upheld.

It is also noted that the New York Heart Classification's updated material indicates that claimant may be capable of even more strenuous work than light work in that claimant has a functional capacity classification of Class I. See New Exhibit 3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is UPHELD.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 11, 2009

Date Mailed: September 14, 2009

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.

2007-17421/JS

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 mailing date of the rehearing decision.

JS/cv

cc:

