

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: 2007-05006  
Issue No: 2009, 4031  
Case No. [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 26, 2007  
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra Wright

HEARING DECISION

The hearing in this matter was conducted by Administrative Law Judge Jacqueline Y. Hall-Keith on April 26, 2007, pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. Judge [REDACTED] left State employment before the hearing decision was written. The undersigned Administrative Law Judge has written this hearing decision after review of all evidence in the record including the recording of the actual hearing.

ISSUES

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA) and State Disability Assistance (SDA) programs?

FINDINGS OF FACT

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

- (1) Claimant applied for MA and SDA benefits on January 11, 2006.

(2) Claimant requested a hearing on May 10, 2006 protesting the Department's action.

(3) The Medical Review Team (MRT) determined Claimant "not disabled" on October 2, 2006. (Exhibit 1).

(4) The State Hearing Review Team denied eligibility again on March 2, 2007. (Exhibit 2).

(5) The Medical Review Team determined that Claimant's impairment cannot be expected to result in death and cannot be expected to last at least 12 consecutive months.

(6) On March 2, 2007, the State Hearing Review Team again denied eligibility for MA, denied retroactive MA, and denied State Disability Assistance (SDA) (Exhibit 2) on the grounds Claimant "retains the capacity to perform a wide range of light work."

(7) Claimant's alleged disabling impairment is back pain.

(8) Claimant was 41 years old with a [REDACTED] birth date at the time of the hearing. Claimant was 6'1 and weighed 275 pounds. Claimant was left hand dominant. He completed high school. Claimant was last employed in 1999 when he worked as an automotive mechanic rebuilding engines. He performed this work for 15 to 16 years. His job as a mechanic involved taking motors out of cars, lifting 80 to 90 pounds, lots of walking and bending, and primarily standing most of the day. He used an assortment of automotive repair tools.

(9) The objective medical evidence revealed Claimant visited [REDACTED] on [REDACTED] pursuant to an order by Judge [REDACTED]. [REDACTED] wrote a report on [REDACTED]. In that report, [REDACTED] stated that Claimant has "extensive scarring throughout the thoracic and lumbar spine." He has very limited range of motion, resulting in the ability to bend forward only about 10 to 20 degrees with "complaints of sharp pain." "His rotation and lateral

side bend is limited by about 80%.” In the recommendation session of [REDACTED] report, he wrote:

Unfortunately, I did not have any records for review on him, but it appears from his clinical history and from examination that [REDACTED] [REDACTED] would be listed in the full disability category. I would not find him able to perform any type of physical activities, including prolonged sitting, standing, bending, climbing, walking, lifting, carrying, etc. I would recommend that he follow up with the neurosurgeon for possible fusion surgery.

(10) The Department received Claimant’s hearing request on December 13, 2006.

(Exhibit 1).

#### 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program, Under SSI, 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

Pursuant to 20 CFR 416.920 a five step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b). In this case, Claimant is not employed. He last worked as an auto mechanic in 1999.

Secondly, the individual must have an impairment that must have lasted or must be expected to last for a continuous period of at least 12 months. This is the "durational requirement." 20 CFR 416.909. In this case, Claimant's impairments have lasted longer than 12 months.

The third step in the process is to assess whether the impairment or combination of impairments significantly limits an individual's physical or mental ability to perform basic work activities. If these abilities are not significantly limited, an individual does not have a severe impairment and is therefore not disabled. 20 CFR 416.920(c). In this case, the Claimant's impairment significantly limits his physical ability to perform basic work activities. Claimant

cannot lift more than five pounds, cannot bend forward more than 20 degrees, is limited by 80% in his ability to rotate to the side or bend laterally to the side. In addition, he cannot perform any type of physical activities, including prolonged sitting, standing, bending, climbing, walking, lifting, and carrying. Claimant's impairment significantly limits his physical ability to perform basic work. Therefore, he has a severe impairment.

In the fourth step of the process the social security listing in appendix 1 is used. If the impairment or combination of impairments meet or is the medically equivalent of a listed impairment as set forth in appendix 1, the individual is considered disabled. If not, vocational factors are considered. 20 CFR 416.920(d). In the instant case, Claimant's extensive impairment of his spine the medical equivalent of a listed impairment, under Part A, Section 100. Musculoskeletal System, 1.04 Disorders of the Spine. Therefore, Claimant is disabled.

In the fifth step, an individual's residual functional capacity (RFC) is considered in determining whether disability exists. An individual's age, education, work experience, and skills are use to evaluated whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e).

In the present case, it was not necessary to proceed to the fifth step of the analysis because Claimant's impairment is the equivalent of a listed impairment under 20 CFR 416.920(c). Therefore, it is found that Claimant qualifies for MA based on disability and is disabled for purposes of the SDA program.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant meets the definition of medically disabled under the MA program as of his application on January 11, 2006. Retroactive MA is also applicable to February 2006.

Accordingly, the Department's determination is REVERSED.

The Department is ORDERED to initiate a review of the January 11, 2006 application to determine if all other non-medical eligibility criteria are met. The Department shall inform Claimant and his representative, if any, of its determination in writing. Assuming Claimant is otherwise eligible for program benefits, the Department shall review Claimant's continued eligibility in April 2010.

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/s/  
Tyra L. Wright  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 04/06/09

Date Mailed: 04/07/09

**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.

TW/dj

cc:

[REDACTED]