

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: 2007-24613

Issue No: 2009; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 23, 2008

Kalamazoo 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, a telephone hearing was held.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) 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 4/26/07, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did not apply for retro MA.
- (3) On 8/23/07, the MRT denied.
- (4) On 8/23/07, the DHS issued notice.

(5) On 9/6/07, claimant filed a hearing request.

(6) Claimant testified under oath that she was previously on SSD for a number of years and was terminated after SSA ruled that claimant could work again. Claimant testified that she appealed and was denied. Claimant further testified that she reapplied in March, 2007. A 7/22/08 SOLQ indicates that claimant does not have an appeal pending as she was denied on 7/18/07. Claimant is alleging a worsening condition and thus, exceptions under the jurisdictional issue apply. Jurisdiction is proper.

(7) As of the date of application, claimant was a 46-year-old female standing 5' 4" tall and weighing 174 pounds. Claimant's BMI is 29.9, classifying her as overweight. Claimant has a high school diploma.

(8) Claimant testified that she does not smoke.

(9) Claimant testified that she does not have an alcohol/drug abuse problem or history.

(10) Claimant has a driver's license and can drive a motor vehicle.

(11) Claimant is not currently working. Claimant last worked in 1994 as a debt collector. Claimant's work history is working as a teacher's aide on a playground. Claimant's alleged impairments are the result of an injury suffered in 1993 on a playground. Claimant collected a \$34,000 Workmen's Comp settlement.

(12) Claimant alleges disability on the basis of degenerative disc disease.

(13) The SHRT findings and conclusions of its 12/12/07 decision are adopted and incorporated by reference to the following extent:

3/07 lumbar spine x-ray normal. Exhibit 18.

6/25/07 consult exam reports did not want to do most of the gross motor activities due to complaints of pain in spine. No atrophy present. No problems transitioning positions. Sensory exam intact. Straight leg raising negative. Range of motion normal. Gait normal. Could heel/toe walk, squat, etc. Exhibit 8.

Analysis: Complaint of back pain, however no significant functional limitations present on exam. Denied per 20 CFR 416.921(a). Exhibit 53.

(14) The subsequent 1/30/08 SHRT decision is adopted and incorporated to the following extent:

Claim returned with newly submitted evidence. 10/1/07 physician note indicates claimant having pain radiating down to legs as medication no longer effective. Physician notes last examined claimant on 3/22/07. Various notes report claimant had painful urination and tender back with limited flexion, however deep tendon reflexes normal and gait was normal.

8/21/06 Pain Clinic records indicate claimant doing 'wonderfully' after rhizotomy. Note of 11/06 reports repeat rhizotomy expected. Getting trigger point injections for myofascial pain. Exhibit 48. No significant functional limitations present on most recent exam despite complaint of back pain. Did have normal gait. Imaging studies did not demonstrate any abnormalities. Noted claimant had not seen treating physician from March 2007 to October 2007, suggesting she did not seek treatment in that time period. Denied per 20 CFR 416.921(a).

(15) Claimant does not need any assistance with her bathroom or grooming needs, and shares laundry. Claimant stipulated that the new medical evidence she brought in did not indicate that she could not work.

(16) Progress note of 6/25/07 indicates claimant was dismissed from SSA due to improvement with treatment. Exhibit 6.

(17) June 25, 2007 evaluation concludes:

Client has complaints of chronic pain. Did not display any obvious motor limitations or contractures that would preclude her from doing the orthopedic maneuvers on the disability questionnaire. She would not comply there with doing most of the resisted exercises due to complaints of pain. Exhibit 8.

(18) 3/27/07 lumbar spine radiology report finds no spondylosis, no lumbar spine abnormality. Exhibit 18.

### 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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) 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).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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 a two-fold assessment of duration and severity. 20 CFR 416.920(c). As noted in the Findings of Fact, SHRT denied claimant on both occasions due to claimant not having a severe impairment. 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 past relevant work on the basis of the medical evidence. Claimant's last work was working in a sedentary job as a bill collector. Social Security found that claimant's condition improved. There are no functional limitations in the medical evidence which meet the requirements found at 20 CFR 416.913(b), .913(d), and .913(e). Claimant's complaints are not corroborated by the medical evidence pursuant to the requirements found at 20 CFR 416.927(a)(1). Statutory disability is not shown.

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: May 11, 2009

Date Mailed: May 12, 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.

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

cc:

