

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: 2009-15422

Issue No: 2009/4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 21, 2008

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 May 21, 2008. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

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 is a divorced, 48-year-old military veteran with a college degree from [REDACTED] (Department Exhibit #1, pgs 5, 16 and 17).
- (2) Claimant stands 5'8" tall and weighs 155 pounds; he is right hand dominant.

(3) Claimant lives in his friend's house; he is independent in self cares and basic living activities and he has a valid driver's license.

(4) Claimant's past relevant work experience includes being a warehouse order puller, a dispatcher/freight clerk/customer service representative for a trucking company and doing general manual labor (painting/drywall/landscaping).

(5) Claimant was most recently employed in 2006, but he has not worked anywhere since then (Department Exhibit #1, pg 17).

(6) On November 2, 2007, claimant filed a disability-based MA/SDA application alleging he is unable to do any type of substantial gainful work activity due to depression and bilateral carpal tunnel syndrome.

(7) In 1999, claimant was diagnosed with Bipolar Disorder (Department Exhibit #1, pg 6).

(8) Claimant's bilateral carpal tunnel syndrome was initially confirmed as mild by EMG dated January 19, 2001 (Department Exhibit #1, pg 26).

(9) Updated studies done on January 24, 2008 reveal mild left median mononeuropathy at the wrist without ongoing motor denervation, but moderate to severe right wrist mononeuropathy with ongoing motor denervation in the thenar muscles was detected (Client Exhibit A, pgs 1 and 2).

(10) Claimant's clinical examination reveals: (1) full range of motion in all digits; (2) FPL/EPL/FDS/FDP and extensor mechanism intact on all digits; (3) 2+ radial and ulnar pulses bilaterally; and (4) no gross deformity, edema, erythema or wounds on either hand (Client Exhibit A, pg 2).

(11) Claimant started taking [REDACTED] as needed for pain management in April, 2008.

(12) Claimant was not taking any prescription medications for his Bipolar Disorder until he returned to mental health treatment in January, 2008.

(13) Claimant's current symptom management medication as of April, 2008 was

██████████.

(14) In January, 2008, during an independent physical examination, claimant exhibited full range of motion in all joints without any neurological deficits (Department Exhibit #1, pgs 7-10).

(15) Specifically with regard to claimant's hand function, he could make complete fists bilaterally, no thenar muscle atrophy was noted, sensory digit perception was fully intact bilaterally, and his grip strength was 60 pounds on the right and 65 pounds on the left by dynamometer testing (Department Exhibit #1, pg 6).

(16) A January 4, 2008 psychological evaluation indicated claimant had not taken any prescription medication since 1990 (See also Finding of Fact #12 and #13 above).

(17) No mental, cognitive, or emotional impairments were present during clinical observation; claimant was alert, cooperative, fully oriented with appropriate affect and clear/coherent/well-organized speech and thinking process was noted (Department Exhibit #1, pg 12).

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).

Pursuant to Federal Rule 42 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

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

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 to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by

a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

...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.

...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 you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...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).

...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).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

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

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.

...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).

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).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about

the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial gainful activity without good cause, there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

Claimant does not qualify for the MA/SDA disability coverage he seeks because he has not established the existence of a medically severe condition, or combination of conditions, which would preclude employability for the necessary durations. Claimant is a college educated, fully independent individual who performed a variety of jobs until 2006, including sedentary employment at a trucking company where he acted as a dispatcher, a customer service representative and a freight clerk. Additionally, claimant's current prescription medications, when taken as prescribed, appear perfectly capable of adequate symptom management. In fact, nothing in claimant's medical records establishes he is now incapable of working in a wide variety of unskilled jobs currently existing in the national economy, including his past work described above. Therefore, claimant's disputed MA/SDA application must remain denied in

concurrence with the State Hearing Review Team (SHRT) decisions dated April 25, 2008 and June 24, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's November 2, 2007 MA/SDA application.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed:  _____

Date Mailed:  _____

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 receipt 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.

MBM/db

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