

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: 2008-28699  
Issue No: 2009;4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
November 24, 2008  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

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 November 24, 2008. Claimant was not represented.

ISSUE

Is claimant disabled for the purposes of the Medical Assistance and State Disability Assistance 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 Medical Assistance and State Disability Assistance on February 20, 2008.
- (2) Claimant's impairments have been medically diagnosed as recurrent vasovagal syncope, cardiac arrhythmias, hypotension, sleep apnea, seizure disorder, reflux disease, history of head injury ([REDACTED]) and bipolar disorder.

(3) Claimant's physical symptoms are chest pains (3-4 times a day), pain in the arms, dizziness (daily), vomiting (3 times a day) and headaches.

(4) Claimant has the following emotional limitations: poor memory, poor concentration, crying spells, episodes of anger, suicidal thoughts and mood swings.

(5) Claimant's impairments have lasted or will last for a continuous period of not less than 12 months.

(6) Claimant is [REDACTED].

(7) Claimant has a high school education.

(8) Claimant has employment experience as a high low driver, truck driver, security guard, warehouse worker and sales clerk.

(9) Claimant has significant limitations on physical activities involving sitting (no more than an hour at a time), standing (no more than an hour at a time), walking (no more than 75 feet at a time), bending, lifting and stooping.

(10) The department found the claimant was not disabled and denied claimant's application on July 15, 2008.

(11) Upon claimant's request for a hearing, medical evidence was submitted to the State Hearing Review Team. The State Hearing Review Team determined that claimant was not disabled for the programs.

### 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).

The Department of Human Services conforms to state statute in administering the State Disability Assistance program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income 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.

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

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

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).

Here, claimant's impairment or combination of impairments is severe but does not meet nor is it the equivalent of a listed impairment. Claimant is also unable to do past work. Therefore, the determination of disability will be based on claimant's residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Claimant's impairments and limitations have a major effect upon claimant's ability to perform basic work activities. Claimant is unable to perform the full range of activities for even sedentary work as defined in 20 CFR 416.967(a) because of the nature of the limitations. The total impact caused by the combination of medical problems suffered by the claimant must be considered. The combination of claimant's impairments result in a severe impairment which limits claimant's ability to work. 20 CFR 404.1529.

In the present case, claimant has severe physical and emotional problems which severely affect his ability to perform basic work activities. Claimant suffered a head injury in [REDACTED]. Since this time, he has had recurrent syncopal episodes. Claimant testified that he passes out at least once a week. The medical evidence documents that he has had several of these episodes. Claimant also has seizure disorder and cardiac arrhythmias. Claimant's cardiologist indicated

that claimant could not perform any repetitive actions with his arms or hands involving pushing, pulling or fine manipulation. His treating physician indicated that claimant's impairments restrict the amount of lifting and carrying, standing and walking and postural activities all due to his syncopal episodes. The physician further noted that claimant would never be able to climb, balance, stoop, crouch, kneel or crawl. He further indicated that he is limited in the amount of handling, pushing and pulling. He is restricted from environmental situations such as heights, moving machinery, chemicals, extreme temperatures and vibrations. These limitations greatly reduce claimant's ability to perform basic work activities even on a sedentary level. Claimant has the additional emotional impairment of bipolar disorder. He has a number of symptoms as the result of this disorder as described above. In a report dated [REDACTED] the examining physician noted that claimant suffers from mood swings. "He has symptoms of depression as well as manic episodes. He has had psychiatric hospitalizations in the past and currently sees a psychiatrist ... he also takes psychotropic medication which according to him helps. He still has some symptoms." The physician noted that his prognosis is guarded. Claimant admitted to having suicidal thoughts and suicidal attempts in the past. He has poor concentration and memory and he needs medication to sleep. At the hearing, claimant testified as to attempting suicide on one occasion by using a gun and on another carbon monoxide. The examining physician gave claimant a Global Assessment Functioning score of 50 which indicates serious symptoms or serious impairment in social, occupational or school functioning. This Administrative Law Judge finds that claimant's combination of severe physical symptoms and limitations along with his emotional symptoms render claimant unable to perform even sedentary work as defined by 20 CFR 416.967(a). *Wages v Secretary HHS*, 755 F2nd (6<sup>th</sup> cir 1985). Therefore claimant is disabled for the purposes of the Medical Assistance and State Disability Assistance programs. Rule 201.00(h) of Federal Rule 20 CFR 404, Subpart P, Appendix 2.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is medically disabled under the Medical Assistance and State Disability Assistance programs as of February 1, 2008. Therefore, the department is ORDERED to initiate a review of the application of February 20, 2008, if not done previously, to determine claimant's non-medical eligibility. The department shall inform the claimant of the determination in writing. The case shall be reviewed in February 2010.

/s/  
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Rhonda P. Craig  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: February 9, 2009

Date Mailed: February 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 receipt date of the rehearing decision.

RPC/vmc

cc:

[REDACTED]