

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: 2008-30066

Issue No: 2009/4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 3, 2008

Wayne County DHS [REDACTED]

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, an in person hearing was held on December 3, 2008, and claimant was represented by [REDACTED]

[REDACTED] The record closed on March 20, 2008.

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 April 25, 2008. Claimant requested retroactive Medical Assistance to January 2008.

- (2) Claimant's impairments have been medically diagnosed as hypertension, asthma, decompensated heart failure, history of rheumatoid arthritis (knees, ankles, wrist, and hands) dyslipidemia, history recurrent congestive heart failure and pericardial effusion.
- (3) Claimant's physical symptoms are constant pain in the hands, ankles (severe), frequent pain in knees, constant swelling in the hands, ankles and frequent swelling in the knees. Claimant has shortness of breath and numbness in the hands and ankles.
- (4) Claimant's impairments will last or have lasted for a continuous period of not less than 12 months.
- (5) Claimant is 41 years of age.
- (6) Claimant has a 9th-grade education.
- (7) Claimant has employment experience as a car seat upholsterer and laborer.
- (8) Claimant has significant limitations on physical activities involving sitting (limited), standing (no more than 1 minute at a time), walking (no more than one-half block at a time), bending, lifting and stooping.
- (9) Claimant has severe limitations with range of motion in his right hand. Claimant has difficulty gripping and grasping things with both hands.
- (10) The department found that claimant was not disabled and denied claimant's application on May 20, 2008.
- (11) Upon claimant's request for a hearing medical evidence was submitted to the State Hearing Review Team for consideration. 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 Family Independence Agency 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 1 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 Family Independence Agency 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)

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 affect 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 combinations 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 a number of conditions that severely affect his ability to perform basic work activities. In particular, claimant has a history of decompensated heart failure, dyslipidemia recurrent congestive heart failure and pericardial effusion. Claimant complains of shortness of breath as a result. Claimant has also been diagnosed with rheumatoid arthritis in his knees, ankles, wrist and hands. Claimant testified that he suffers from pains in

these areas. As a result of the pain, claimant indicates that he is extremely limited in the amount of sitting, standing, walking, bending, lifting and stooping he can perform.

This Administrative Law Judge does take into account claimant's complaints of pain in that the diagnoses do support the claims. Subjective complaints of pain where there is objectively established medical conditions that can reasonably be expected to produce the pain must be taken into account in determining a claimant's limitations. *Duncan v Sec of HHH*, 801 F2d 847 (CA 6, 1986); 20 CFR 404.1529, 416.929.s

The examining physician indicated that claimant "has tenderness over the knuckles and PIP joint areas ...His fingers appear to have some kind of claw hand deformity.... Examination of the knees and ankles revealed that movements were restricted. They were associated with pain... Ankle movements are restricted to about 65% of normal range. His wrists and hands movement was restricted. He has tenderness over the MCP and PIP joints with limitation of movement. There was the presence of pain, tenderness and minimal swelling." The physician noted in general that "the patient appears to be disabled for work. He cannot do any job involving lifting, pushing, pulling or carrying... He cannot do frequent climbing, prolonged standing or walking, carrying or lifting heavy things. On the Medical Examination form the physician indicated that claimant was limited in the use of his hands for pulling and pushing. Considering claimant's extreme limitations of motion, this Administrative Law Judge finds that the claimant would not be able to perform the full range of activities for sedentary work. *Wages v Sec of HHH*, 755 F2d (6th 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, App. 2.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is medically disabled under the Medical Assistance program as of January 1, 2008.

Therefore, the department is ordered to initiate a review of the application of April 25, 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 March, 2010.

/s/

Rhonda P. Craig
Administrative Law Judge
for Marianne Udow, Director
Department of Human Services

Date Signed: 04/07/09

Date Mailed: 04/07/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order the claimant may appeal it to the circuit court for the county in which he/she lives. Administrative Hearings, on its own motion, or on request of a party within 30 days of the receipt of this Decision and Order, may order a rehearing. Administrative Hearings will not order a rehearing on the agency's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original hearing request.

RPC/jlg

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