

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: 2008-3849

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 14, 2008

Kent 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 February 14, 2008. Claimant was not represented.

ISSUE

Is claimant disabled for the purposes of the Medical Assistance program?

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 on July 12, 2007 retroactive to May 2007.

(2) Claimant's impairments have been medically diagnosed as hypertension, anemia, migraines, status post appendectomy, back pain and depression.

(3) Claimant's physical symptoms are constant headaches, back pain, numbness on the left side and weakness in both legs,

(4) Claimant is 37 years of age.

(5) Claimant has an 8th grade education.

(6) Claimant has employment experience as a shipping and receiving clerk and childcare worker.

(7) Claimant has some limitations on physical activities involving sitting, standing, walking and lifting.

(8) The department found that claimant was not disabled and denied claimant's application on September 10, 2007.

(9) 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 program.

(10) At the hearing this Administrative Law Judge concluded that there was additional evidence needed to assess the severity of claimant's impairments. The department was ordered to send claimant to an internist and a psychiatrist for evaluation of physical and emotional complaints.

(11) The department failed to send claimant to an internist as ordered.

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).

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).

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

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).

In the present case, evidence indicates that claimant should be able to perform work on at least a sedentary level. Claimant has alleged physical impairments such as anemia, migraines and back pain. At the hearing he indicated that he had surgery scheduled for [REDACTED] for a hernia and he indicated he'd be off for six weeks due to the surgery. At the hearing, claimant testified that he has constant headaches and back pain. He also has a limited range of motion in his back. Despite these complaints, claimant has indicated he is able to sit for at least one hour at a time, stand for an hour at a time, and walk a half block at a time. He has some limitations regarding lifting and no limitations regarding bending or stooping. Considering claimant's testimony, it appears that claimant has the residual functional capacity to perform work on at least a sedentary level. Claimant has also been diagnosed with depression. In an examination report dated [REDACTED] the physician indicated that claimant had major depression which was recurrent and moderate. He indicated that claimant's affect was mildly flat or depressed but there was no acute distress. He further stated that claimant was oriented to person, place and time and had adequate memory. There is no evidence that claimant has any suicidal thoughts, mood swings, feelings of isolation, guilt feelings, paranoia or hallucinations. The physician noted that claimant was reality based and oriented although he seems to have low self esteem. His motor behavior was within normal limits and he was cooperation with the exam. His insight is adequate. His thought processes were logical and organized; and his speech was clear and understandable. He indicated that the claimant did not evidence any signs of psychosis. He gave claimant a Global Assessment Functioning score of 53 which indicates moderate symptoms or moderate difficulty in social, occupational or school functioning. He indicated that his prognosis was fair although medications did not seem to help very much. Considering the report from the physician it appears that claimant's emotional problems would not prevent him from performing

simple, unskilled work. Claimant now has the residual functional capacity to perform work on at least a sedentary level. Claimant is a younger individual. 20 CFR 416.963. Claimant has a limited education. 20 CFR 416.964. Claimant's previous work was unskilled. Federal Rule 20 CFR 404, Subpart P, Appendix 2 contains specific profiles for determining disability based on residual functional capacity and vocational profiles. Under Table 1, Rule 201.24 claimant is not disabled for the purposes of the Medical Assistance program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department was correct in determining that claimant was not disabled for the purposes of the Medical Assistance program and it is ORDERED that the department's decision in this regard being is hereby AFFIRMED.

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

Date Signed: February 4, 2009

Date Mailed: February 6, 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.

2008-3849/RPC

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:

