

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: 2008-15590
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 1, 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, an in-person hearing was held on October 1, 2008. Claimant was represented by [REDACTED] with [REDACTED].

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 benefits on August 30, 2007. Claimant requested Medical Assistance retroactive to May 2007.

(2) Claimant's impairments have been medically diagnosed as seizures, status post upper gastrointestinal bleed (Mallory-Weiss tear), and history of stab injury ([REDACTED] -healed).

(3) Claimant's physical symptoms are occasional seizures.

(4) Claimant is 35 years of age.

(5) Claimant has a 10th grade education.

(6) Claimant has employment experience doing odd jobs.

(7) Claimant has no significant limitations on physical activities.

(8) The department found the claimant was not disabled and denied claimant's application on November 13, 2007.

(9) New medical evidence (marked new in the file) was received and entered after the hearing. It was submitted to the State Hearing Review Team for reconsideration. The State Hearing Review Team again 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.

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

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Medical evidence indicates that claimant has no significant functional impairments. Claimant should be able to perform work on at least a medium level. Claimant had a gastrointestinal bleed in [REDACTED]. A subsequent EGD revealed a healing tear in the esophagus. There appears to be no sustained symptoms as a result of this bleed. In [REDACTED] [REDACTED] claimant suffered a stab wound to the back. It has subsequently healed and there is no indication of permanent limitations as a result. Claimant has been diagnosed with seizures. Claimant has not been compliant with medication and according to at least two reports his anti-seizure medication was sub therapeutic. At the hearing, claimant testified that he does not have money or insurance to obtain the seizure medication. Nevertheless, claimant's seizures do not meet a listing. Claimant testified that his last seizure was two months prior to the hearing and the last one before that was three months before that seizure. Claimant's seizures even without medication do not meet the listing.

Pursuant to 20 CFR 416.920, a five step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity." If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b)

Secondly, the individual must have an impairment that must have lasted or must be expected to last for a continuous period of at least 12 months. This is the "durational requirement." 20 CFR 416.909

The third step in the process is to assess whether the impairment or combination of impairments significantly limits an individual's physical or mental ability to perform basic work activities. If these abilities are not significantly limited, an individual does not have a severe impairment and is therefore not disabled. 20 CFR 416.920(c)

In the fourth step of the process, the Social Security listing in Appendix 1 is used. If the impairment or combination of impairments meets or is the medical equivalent of a listed impairment as set forth in Appendix 1, the individual is considered disabled. If not, vocational factors are considered. 20 CFR 416.920(d)

In the fifth step, an individual's residual functional capacity is considered in determining whether disability exists. An individual's age, education, work experience and skills are use to evaluate whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e)

Here, claimant has satisfied the requirements as set forth in steps one, two and three of the sequential evaluation. However, claimant impairments do not meet a listing as set forth in Appendix 1, 20 CFR 416. 926. Therefore, vocational factors will be considered to determine the claimant's residual functional capacity to do relevant work.

There is no evidence to indicate that claimant's physical condition would prevent claimant from performing at least medium work. At the hearing, claimant testified that he had no problem sitting, standing, walking, bending, lifting or stooping. He testified that he had no pain. He indicated that he performs such activities as mowing lawns, washing dishes and doing the laundry. He does have some limitations associated with seizures. He should be able to perform a full range of activities for at least medium work. Claimant is a younger individual. 20 CFR 416.963. Claimant has a limited education. 20 CFR 416.964. Claimant's previous work as been

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 3, Rule 203.25 claimant is not disabled for the purposes of the Medical Assistance and State Disability Assistance programs.

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 the claimant is not disabled for the purposes of the Medical Assistance and State Disability Assistance programs 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 3, 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.

2008-15590/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:

