

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No: 2008-16819

Issue No: 2009

Case No: ██████████

Load No: ██████████

Hearing Date:

July 21, 2008

Bay County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 July 21, 2008. The Claimant did not appear and testify.

The Hearing was held at the request of the Claimant's representative Advomas, Gary Bida. New medical records were submitted at time of the hearing and were submitted to SHRT for consideration and subsequently denied again by SHRT.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant is not "disabled" for purposes of the Medical Assistance (MA) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as a material fact:

1. On December 26, 2007, the Claimant applied for MA-P, Retro MA.

2. On March 6, 2008, the Department denied the Claimant's application.
3. On March 21, 2008, the Claimant filed a request for hearing regarding the Department's denial of benefits.
4. The Claimant is 37 years old.
5. The Claimant has an 11th grade education.
6. The Claimant's work history, according to FIA 49-F completed on December 6, 2007, completed and signed by a representative, indicates a work history as a carpenter until 2003.
7. The Claimant suffers from back surgery.

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 (formerly known as the Family Independence Agency) 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).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process for evaluating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following steps:

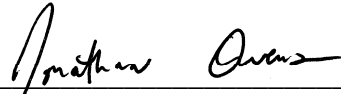
The first sequential step to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant did not appear for the hearing since he had been incarcerated since June 2008. The only indication of employment can be found on Department exhibit 1 page 26 which is a FIA 49-F dated December 6, 2007 completed and signed by a representative indicating a work history as a carpenter until 2003. No other documentation and/or evidence was submitted to establish the employment status of the Claimant after December 2007 until June 2008.

It is the finding of the undersigned, based upon the evidence presented that the Claimant is not “disabled” at the first step. The Claimant has not demonstrated his employment status for the time period in question.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law, decides that the Claimant is not “disabled” for purposes of the Medical Assistance and State Disability Assistance programs.

It is ORDERED; the Department's determination in this matter is AFFIRMED



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/03/10

Date Mailed: 03/04/10

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.

JWO/dj

cc:

