

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: 2008-23474
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 8, 2008
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 October 8, 2008. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

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 is a divorced, 46-year-old high school graduate with a Special Education history who was incarcerated for approximately 15 years ([REDACTED]); he has never had a driver's license so he walks or takes the bus wherever he needs to go, per self report (Department Exhibit #1, pgs 70-72).

(2) Claimant has an extensive polysubstance abuse history (alcohol/cocaine/marijuana), but he testified to not having used substances for more than a year prior to his October 8, 2008 disability hearing date (Department Exhibit #1, pg 68).

(3) Claimant last worked for approximately one year after getting out of prison in an unskilled factory job; he quit that job in August 2007 because he moved away from the area (Department Exhibit #1, pg 70).

(4) In December 2007, claimant was treated in a local emergency room for pit bull bites on his lower lip; no residual complications are noted (Department Exhibit #1, pgs 1 and 1A).

(5) A [REDACTED] initial assessment was done at [REDACTED] in February 2008; in April 2008, claimant was diagnosed with Schizoaffective Disorder (Department Exhibit #1, pgs 15-40).

(6) As of claimant's hearing date (10/8/08) he had been participating in outpatient counseling regularly for approximately eight months and his schizophrenia was being stabilized on a medication schedule consisting of [REDACTED] (Client Exhibit A).

(7) Claimant reports his drug side effects are dry mouth, upset stomach and hand tremors (Client Exhibit A).

(8) On October 25, 2007, claimant underwent an independent physical examination; no severe physical impairments were found (Department Exhibit #1, pgs 76-79).

(9) Claimant stands approximately 5'9" tall and weighs approximately 210 pounds; he was residing with relatives as of his disability hearing date (10/8/08)(Department Exhibit #1, pg 47).

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).

Statutory authority for the SDA program states in part:

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 exempt 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:

- (b) A person with a physical or mental impairment which meets federal SSI 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.

Michigan administers the federal MA program. In assessing eligibility, Michigan defers to the federal guidelines. These guidelines are also used in SDA determination cases and state in relevant part:

"Disability" is:

...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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

At application, the applicant has the burden of proof pursuant to the following section:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

The federal regulations are very specific regarding the type of medical evidence required from applicants to establish disability. The regulations essentially require laboratory or clinical medical reports consistent with an applicant's reported symptoms, or with his/her treating doctor's statements regarding disability or the lack thereof. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.

- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant remains eligible at the first step since he is not currently working and has not worked since he quit his most recent job in 2007

when he moved from that area (See Finding of Fact #3 above). 20 CFR 416.920(b). As such, the analysis must continue.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge finds claimant meets both. As such, the analysis must continue.

The third step of the analysis looks at whether an individual meets or equals one of the listed impairments. 20 CFR 416.920(d). Claimant does not. Therefore, the analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to his past relevant work. This step examines the physical and mental demands done by the applicant in the past. 20 CFR 416.920(e).

In this case, this Administrative Law Judge finds nothing in claimant's physical or mental records would prevent him from returning to any number of unskilled factory jobs currently existing in the national economy similar to the job he quit in August 2007. As such, this analysis could end at step four with a finding of not disabled. However, even if an analysis of the last step was required, claimant would not be disabled under the governing rules.

The fifth and final step of the analysis applies the biographical data of an applicant to the Medical-Vocational Grid Rules to determine the functional capacity of that individual to do other work. 20 CFR 416.920(f). After a careful review of claimant's medical records, this Administrative Law Judge finds Medical-Vocational Grid Rule 202.20 directs a finding of not disabled. This is because claimant is a younger individual with a high school education and a history of unskilled work. Although claimant has some side effects from his medications, nothing on this record establishes that his primary disorder is not adequately controlled with the

medications currently being prescribed. Put simply, there is insufficient medical documentation to indicate claimant's mental impairment interferes with his ability to engage in any number of light, unskilled low stress jobs currently existing in the national economy, which is the standard to be applied in disability determination cases. Likewise, claimant's medical evidence is completely devoid of any severe physical impairments. Consequently, when taken as a whole, claimant's evidence fails to meet the statutory requirements necessary to qualify for disability-based MA or SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's April 10, 2008 MA/SDA application based upon a finding he does not meet the rules necessary to qualify for either program.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 26, 2009

Date Mailed: October 27, 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 receipt 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.

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