

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: 2008-24444
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 4, 2009
WayneCounty DHS

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on February 4, 2009. Claimant appeared and testified. Claimant was represented by [REDACTED]

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) 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) On April 3, 2008, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to March of 2008.

(2) On June 4, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.

(3) On June 17, 2008, a hearing request was filed to protest the department's determination.

(4) Claimant, age 56, has a high school education and one year of college from [REDACTED].

(5) Claimant last worked in 2000 as a home repair and improvement contractor. Claimant reported that he installed siding, put in new windows, painted, and the like. Claimant has also performed relevant work cleaning and stripping floors as well as cutting leather.

(6) Claimant has a history of alcohol abuse. Prior to his injury in March of 2008, claimant had no major medical problems.

(7) On March 24, 2008, while intoxicated, claimant fell and sustained a right 5th metatarsal fracture and left intertrochanteric femur fracture. Claimant underwent open reduction and internal fixation of the femur fracture.

(8) Claimant was seen at an orthopedic outpatient clinic at [REDACTED] on July 14, 2008. At that point, he was ambulating well without an antalgic gait. Claimant was informed that he did not need to return to the clinic anymore.

(9) The allegations concerning claimant's impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, do not reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity for a continuous period of not less than 12 months.

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).

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“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

In general, claimant has the responsibility to prove that he is disabled.

Claimant’s impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant’s statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the

impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, claimant is not employed. Accordingly, claimant may not be eliminated from eligibility for MA at this step in the sequential evaluation process.

Secondly, the trier of fact must determine if claimant has a severe impairment which meets the durational requirement. Unless an impairment is expected to result in death, it must have lasted or be expected to last for a continuous period of at least 12 months. 20 CFR 461.909. In this case, prior to his injury in March of 2008, claimant had no serious medical problems. On March 24, 2008, while intoxicated, claimant fell and sustained a right 5th metatarsal fracture and left intertrochanteric femur fracture. He underwent open reduction and internal fixation of the femur fracture. Following a period of rehabilitation, claimant was discharged on April 22, 2008. On July 14, 2008, claimant was seen at the [REDACTED]. At that point, he was described as ambulating well without an antalgic gait. Claimant was informed that he did not need to return to the clinic anymore. At the hearing, claimant testified that if he walks farther than a ¼ mile, he begins to experience pain in his left hip. Claimant also reported a reduced range of motion in his left shoulder. Claimant reported that he lives alone and does his own housework, drives, food preparation and laundry. When asked if there was anything that claimant could not do or needed help with, claimant replied “no.”

A careful review of the entire record indicates that there is no support for a finding that claimant has experienced limitations which resulted in the inability to perform any substantial

gainful activity for a continuous period of not less than 12 months. The record fails to provide the required medical data and evidence to support a finding that claimant has or had an impairment which has or will prevent the performance of substantial gainful activity for the 12-month durational requirement. Accordingly, the undersigned finds that the department has properly determined that claimant is not eligible for MA based upon disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not “disabled” for purposes of the Medical Assistance program.

Accordingly, the department’s determination in this matter is hereby UPHELD.

/s/
Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/15/09

Date Mailed: 4/16/09

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 mailing date of the rehearing decision.

LSS/cv

cc:

