

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: 2008-26171
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 24, 2009
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 February 24, 2009.

ISSUE

Was disability medically established?

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 October 22, 2007, the claimant applied for Medicaid/SDA and was denied on July 2, 2008 per PEM 260/261.

(2) Claimant's vocational factors are: age 44, GED education, in past semi-skilled work as a cashier, counselor for disabled adults, bartender, nurse's aide, motel desk clerk, truck driver, bookkeeper, and coin seller at gaming casino.

(3) Claimant's disabling symptoms/complaints are: able to perform basic mental work activities as defined below but has difficulty remembering short-term, forgetfulness, difficulty concentrating/comprehending, and stress due to impatience and chronic depression; pain in legs, hips, right foot after standing ten minutes; able to bend, squat, stoop, lift, carry, reach at shoulder level occasionally; pain in low back/hips from sitting; able to lift/carry less than one gallon of milk.

(4) Claimant has not performed substantial gainful work since four years ago when she quit her job.

[MENTAL IMPAIRMENT]

(5) Medical exam on [REDACTED] states the claimant's mental status was alert and attended to examiner; that speech was fluent and grossly intact conversation; that she was able to provide many details of her history and did follow commands appropriately (Medical Packet, page 139).

(6) Medical exam on [REDACTED] states the claimant is limited in comprehension, memory, sustained concentration, and following simple instructions (Medical Packet, page 78).

(7) Medical exam on [REDACTED] states the claimant's GAF score of 45 based on an included diagnoses of alcohol episodic and cannabis abuse (Medical Packet, page 12).

[PHYSICAL ABUSE]

(8) Medical exam on [REDACTED] states the claimant had a full range of motion of the neck; that motor exam showed normal muscle bulk, normal resistance to passive manipulation; that strength testing was 5.5 throughout; that coordination was intact to

finger-nose-finger and fine finger movements; and that gait was normal and narrow based (Medical Packet, page 139).

(9) Medical exam on [REDACTED] states the claimant out of an eight-hour workday can stand or walk less than two hours; that she can lift/carry occasionally ten pounds; that she needs no assistive device for ambulation; and that she can use her upper extremities on a repetitive basis (Medical Packet, page 78).

(10) SHRT report dated [REDACTED] states the claimant's impairment(s) do not meet/equal Social Security Listings 1.02, 1.04, 8.09, 12.02, 12.04, or 12.06; and that he has a residual functional capacity for other work—sedentary/light type work (Medical Packet, page 145).

CONCLUSIONS OF LAW

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 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 facts above are undisputed.

"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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;

- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

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).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).

5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

SHRT claims that the claimant has not established an inability to do sedentary/light-type work, as defined above, and the claimant disagrees.

Step #1

Because the claimant was not performing substantial gainful work on date of her Medicaid/SDA application, she meets the Step 1 eligibility test. 20 CFR 416.920(b).

Step #2

This step determines whether the claimant, on date of application, had a severe mental/physical impairment as defined above, which had lasted or was expected to last for a continuous period of at least 12 months (90 days for SDA). 20 CFR 416.916(a) and (b). A *de minimus* standard is applied in determining this step—any ambiguities are determined in the claimant’s favor.

The objective medical evidence stated above supports the claimant’s severe mental/physical impairment duration/requirement. Therefore, Step 2 has been established.

Step #3

This step determines whether the claimant, on date of application, meets/equals a Social Security Listing, and the duration requirement. SHRT determined the claimant’s nondisability under the Listings mentioned above. No Listings were cited by the claimant, specifically addressing and approving any Listings by her submitted medical reports. Therefore, Step 3 has not been established.

Step #4

This step determines whether the claimant, on date of application, was without a residual functional capacity for any of her past work during the last 15 years, despite a severe impairment. 20 CFR 416.920(e).

The medical evidence stated above does establish the claimant's inability to perform any of her past work, as stated above. Therefore, Step 4 has been established.

Step #5

This step determines whether the claimant, on date of application, was without a residual functional capacity for any other work despite a severe impairment. 20 CFR 416.920(f).

The medical evidence stated above does not establish the claimant's inability to perform sedentary/light-type work as defined above. To the contrary, the medical evidence stated above shows the claimant's residual functional capacity for sedentary work/light-type work.

Applicants with a residual functional capacity limited to sedentary/light-type work as a result of a severe medically determinable mental/physical impairment(s), and the claimant's vocational factors stated above are not disabled under this step. Medical-Vocational Rule 201.28/202.21. This step has not been established.

This ALJ is not persuaded that disability has been established by a preponderance of the medical evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that disability was not medically established.

Accordingly, Medicaid/SDA denial is UPHELD.

/S/ _____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 1, 2009

Date Mailed: April 1, 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.

WAS/tg

cc:

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