

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: 2008-4625
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 14, 2008
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

HEARING DECISION

The hearing in this matter was conducted by Administrative Law Judge Jacqueline Hall-Keith on February 14, 2008, pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. Judge Jacqueline Hall-Keith left State employment before the Hearing Decision was written. The undersigned Administrative Law Judge has written this hearing decision after review of all evidence in the record.

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 April 19, 2007.

(2) Claimant's impairments have been medically diagnosed as hypertension, bilateral carpal tunnel syndrome, depression with psychotic features (GAF 45), arthritis in the shoulders, arms and legs, bronchitis, degenerative disc disease (hips and right knee), alcohol abuse (in remission), chronic renal failure and possible Chronic Obstructive Pulmonary Disease.

(3) Claimant's physical symptoms are constant pain in the hands, knees, elbows and shoulders; headaches; numbness and tingling in the hands; and shortness of breath.

(4) Claimant's impairments will last or have lasted for a continuous period of not less than 12 months.

(5) Claimant is 50 years of age.

(6) Claimant has a high school education.

(7) Claimant has employment experience as a direct care worker, hospital housekeeper, factory worker and laborer.

(8) Claimant has significant limitations on physical activities involving sitting (no more than ½ an hour at a time), standing (no more than 10 minutes at a time), walking (no more than 1 ½ blocks at a time), bending, lifting, and stooping. Claimant must use a cane for ambulation. Claimant has a limited range of motion in both lower extremities.

(9) The department found that claimant was not disabled and denied claimant's application on August 23, 2007.

(10) 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; MSA 16.490(15). 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.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

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

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(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.

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).

Medical evidence indicates that claimant may no longer be able to perform her previous work which was medium and light labor. Considering claimant's combination of impairments, claimant appears to have the residual functional capacity to perform work on no more than a sedentary level. Claimant has been diagnosed with bilateral carpal tunnel syndrome. She complains of constant severe pain in her hands which limits her ability to grip and grasp items. She indicates she is limited to lifting only 8 pounds at a time. Claimant is further limited by her arthritis in her shoulders and arms and she complains of constant pain in her elbows and

shoulders as a result. Claimant also has been diagnosed with degenerative disc disease in her hips and her right knee. Claimant's physician indicated that she would not be able to use her right leg for any repetitive actions and that she needs a cane for ambulation. Claimant testified that because of the pain she is limited in the amount of sitting, standing, walking, bending, lifting, and stooping she can perform.

This Administrative Law Judge does take into account claimant's complaints of pain in that the diagnoses do support the claims. Subjective complaints of pain where there are objectively established medical conditions that can reasonably be expected to produce the pain must be taken into account in determining a claimant's limitations. *Duncan v Secretary of HHS*, 801 F2d 847, 853 (CA6, 1986); 20 CFR 404.1529, 416.929.

Medical evidence indicates that there is a mild narrowing of the medial compartment of her left knee also. Claimant's physician indicated that she had a limited range of motion in both lower extremities. Considering the medical evidence and claimant's testimony, it appears that claimant has the residual functional capacity to perform work on no more than a sedentary level based on her severe difficulties with regard to her lower extremities combined with her carpal tunnel syndrome and her upper extremity difficulties. Claimant is an individual approaching advanced age. 20 CFR 416.963. Claimant has a high school education. 20 CFR 416.964. Claimant's previous work was unskilled. Federal Rule 20 CFR 404, Subpart P, Appendix 2, contains specific profiles for determining disability based upon residual functional capacity and vocational profiles. Under Table 1, Rule 201.12, claimant is 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, decides that the claimant is medically disabled under the Medical Assistance and State

Disability Assistance programs as of April 1, 2007. Therefore, the department is ORDERED to initiate a review of the application of April 19, 2007, if not done previously, to determine claimant's non-medical eligibility. The department shall inform the claimant of the determination in writing. The case shall be reviewed in February 2010.

/s/
Rhonda P. Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/11/09

Date Mailed: 5/12/09

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 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.

RPC/cv

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