

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: 2009-10432
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2009
Allegan 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 March 18, 2009.

Claimant's requested continuance of the hearing to obtain additional medical reports was denied based on lack of good cause per PAM 600.

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 May 23, 2008, the claimant applied for Medicaid retroactive to February 2008 and was denied on August 25, 2008 per PEM 260.

(2) Claimant's vocational factors are: age 52, high school education, and past skilled work as a set-up and plant maintenance injection molding operator.

(3) Claimant's medical diagnoses are: mood disorder due to medical condition and polysubstance dependence.

(4) Claimant's disabling symptoms/complaints are: able to perform basic mental work activities as defined below, limited to poor memory; not able to perform basic physical work activities as defined below because of pain in arms/legs after sitting 10 minutes, limited to lifting/carrying 10 to 15 pounds, needs a cane prescribed by a physician; quit substance abuse three years ago.

(5) Claimant has not performed substantial gainful work since June 2, 2004, after he quit his job because of his claimed mental disorder.

[Mental Impairment]

(6) Medical exam on July 28, 2008 states the claimant's current/last year GAF of 45, which included polysubstance dependence reported in remission (Medical Packet, page 31).

[Physical Impairment]

(7) Medical exam on July 15, 2008 states the claimant's gait is intact; that his station and posture are normal; and that his extremities have a full range of motion with normal strength and tone (Medical Packet, page 35).

(8) SHRT report dated January 23, 2009 states the claimant's impairment(s) do not meet/equal a Social Security listing (Medical Packet, page 233).

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).

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.

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).

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).

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).

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. If we can find that you are disabled or not disabled at any point in the review, we do not review further. 20 CFR 416.920(a). 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).

Claimant has the burden of proof to establish by a preponderance of the medical evidence in the record that his mental/physical impairment(s) meet the department's definition of disability for Medicaid. PEM 260.

STEP 1

Because the claimant was not performing substantial gainful work on date of his Medicaid application, he 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. 20 CFR 416.916(a)(b). A *de minimus* standard is applied in determining severity----any ambiguities are determined in the claimant's favor.

The objective medical evidence stated above, on date of application, does not support the claimant's severe/duration requirement, as defined above.

Mental Impairment

The above-mentioned medical evidence on July 28, 2008 (two months after the claimant's application) states a current/last year GAF of 45. This is considered a person with a severe mental impairment and unable to keep a job.

The remaining question is whether on date of application if the severe impairment had lasted or was expected to last for a continuous period of at least 12 months. The objective medical evidence of record does not establish that he had a continuous severe impairment for the 12-month duration.

Physical Impairment

The claimant testified that he needs a walker for ambulatory purposes. He admits that his walker was not prescribed by a physician. The above-mentioned medicals on July 15, 2008 state

the claimant's gait is intact; that his station and posture are normal; and that his extremities have a full range of motion with normal strength and tone. Therefore, the medical evidence does not establish a severe physical impairment, as defined above, nor the claimant's disabling symptoms/complaints.

Also, the claimant's representative was offered the opportunity to point out what pages in the medical packet establish the claimant's mental/physical limitations that were significantly limiting and resulting in a severe impairment, as defined above. He declined.

Before you can be determined disabled, the severity/duration requirement must be established by the objective medical evidence. 20 CFR 416.920(a). Therefore, Step 2 has not 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 non-disability under the above-mentioned listings. No listings were cited by the claimant specifically addressing and approving any listings in his 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 his past work during the last 15 years, despite a severe impairment. 20 CFR 416.920(e).

The medical evidence stated above does not establish the claimant's inability to perform any of his past work, as stated above. Therefore, Step 4 has not 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/light work.

Applicants with a residual functional capacity limited to light/sedentary type work as a result of a severe medically determinable physical impairment(s), and the claimant's vocational factors stated above are not disabled under this step. Medical-Vocational Rule 201.14.

Therefore, this Administrative Law Judge 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 denial is UPHELD.

/s/

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

Date Signed: July 7, 2009

Date Mailed: July 8, 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 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.

WAS/cv

cc:

