

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: 2009-11749
Issue No: 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 April 29, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for State Disability Assistance (SDA)?

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 7, 2008, claimant filed an application for State Disability Assistance benefits alleging disability.

(2) On December 8, 2008, the Medical Review Team denied claimant's application stating that claimant's physical or mental impairments do not prevent employment of 90 days or more.

(3) On December 8, 2009, the department caseworker sent claimant notice that his application was denied.

(4) On December 23, 2008, claimant filed a request for a hearing to contest the department's negative action.

(5) On February 13, 2009, the State Hearing Review Team (SHRT) again denied claimant's application stating his impairment/condition was non-severe per 20 CFR 416.920 (c).

(6) Claimant submitted additional medical information following the hearing which was submitted to SHRT for additional review. On June 16, 2009, SHRT once again determined that the nature and severity of the claimant's impairments would not preclude work activity for 90 days. SHRT also addressed and denied Medicaid (MA) even though the claimant did not apply for this program.

(7) Claimant is a 41 year-old man whose birth date is [REDACTED] Claimant is 5'8" tall and weighs 230 pounds. Claimant has a high school diploma and one year of college in business classes. Claimant is able to read, write and do basic math.

(8) Claimant states that he last worked in December, 2007 as a machine operator, job he held for 4 years and from which he was laid off right after he was hit by a car. Claimant was also a gas station clerk in year 2002 for 1 year, worked for transportation company driving people to work, and also at Sears as an auto technician.

(9) Claimant states he has a pending lawsuit from the car accident, and could not get UCB as he is not able to work. Claimant lives at his mother's house and receives food stamps.

(10) Claimant alleges as disabling impairments: herniated disc, fractured hip, hip, back and neck pain.

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).

Claimant's medical record includes a Lumbar Spine MRI report of [REDACTED] which states that the claimant has minimal disc bulge and bilateral facet arthrosis at L2/L3, L3/L4, and L4/L5, with the neural foramina and the exiting nerve roots showing no abnormality. Claimant has central disc protrusion with pressure on the thecal sac at L5/S1.

Cervical Spine MRI report of the same date states that this is a normal cervical spine study.

[REDACTED], Electromyogram impression is that of mild irritation in the cervical paraspinals, which may indicate a low-grade cervical radiculopathy, and mild bilateral carpal tunnel syndrome.

Medical evaluation of [REDACTED], states that the claimant was involved in an auto accident on [REDACTED], he was the driver, and he did not sustain any fracture from that accident, but started having pain in the neck and back. Claimant reported still going to physical therapy and stated he was getting better. Claimant never had injection or surgery secondary to the auto related injury. Claimant is using a standard cane ever since the auto accident, and is also using lumbar support. Claimant denied bowel or bladder dysfunction and gets therapy three days a week.

Claimant reported smoking about one pack of cigarettes a day, drinking alcohol two days a week, and using marijuana, but stated he does not use crack any more. Claimant was independent in bathroom activities, dressing and undressing, with shirt and pant but his cousin helps him with his shoes. Claimant can drive and in fact came to the appointment by driving himself.

Physical examination reveals that the claimant was not in any apparent distress or discomfort, his standing posture is upright, and the shoulders and the pelvis remain symmetrical bilaterally. Claimant is ambulating with mild limp but sometimes there is no limp. Claimant is using a standard cane and seems to be listing to the right while walking, but did walk on the tip toe as well as on the heel without the use of the cane. Claimant was able to squat fully with deep knee and hip bending and stands up independently.

There was no evidence of cervical paravertebral muscle spasm or soft tissue tenderness. Both shoulders revealed active abduction of 170 degrees, internal and external rotation remained normal, and no atrophy or tenderness was noted over the shoulder girdle. Examination of the elbows and wrists showed no abnormal clinical finding. Claimant can make full fist in both hands with complete closure, there was no evidence of atrophy of the intrinsic muscles of the hands on either side, grip strength as tested on the dynamometer showed right hand 75 lbs. and left hand 80 lbs., with claimant being right handed.

Claimant maintains normal lumbar lordosis; there is no evidence of lumbar paravertebral muscle spasm or tenderness. There was no radicular pain during straight leg raise maneuver. Abduction, adduction, and the rotation of the hips remained normal. No clinical abnormality was noted of the knees. Sensory examination with touch and pinwheel remained intact in all dermatomes in both upper and lower extremities. Manual muscle strength examination showed

upper as well as lower extremities in the normal grade. Claimant showed no difficulty getting on and off the examination table, and sit to stand and supine to sit remained independent. After the examination claimant was able to put his clothes on including his shoes.

Medical report concludes with statement that claimant's physical examination revealed normal range of motion of the cervical as well as the lumbar spine. There are no neurologic deficits noted. Claimant is completely independent in his self care and activities of daily living including his driving.

Medical Examination Report of [REDACTED], states that the claimant has a ruptured disc at L5-S1, which he is improving but cannot carry any amount of weight, that he does not need any assistive devices for ambulation, and that he has no mental limitations.

Claimant's medical record also includes Progress Notes since January, 2008. During every doctor visit claimant complains of extreme pain in his back going down his right leg. Claimant is told repeatedly to lose weight and the importance of aggressive physical therapy. Claimant however was 230 lbs. in the first half of 2008 and remains at the same weight as of the date of the hearing.

Medical evidence presented does not establish that the claimant has a severe medical condition that would prevent him from working. Claimant's subjective reports of extreme pain and physical impairment from his car accident are not supported by medical information provided. Medical evaluation of [REDACTED], appears to provide a very thorough accounting of claimant's physical condition and does not indicate any significant issues that rise to the level of preventing the claimant from engaging in employment activities.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive

State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. PEM, Item 261, page 1. Because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for State Disability Assistance benefits. The claimant should be able to engage in employment activities. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 2, 2009

Date Mailed: September 9, 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.

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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 receipt date of the rehearing decision.

IR [REDACTED]

cc:

[REDACTED]