

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: 2009-14911

Issue No: 2009; 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 2009

Ingham 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 May 27, 2009. Claimant personally appeared and testified. Also appearing and testifying on claimant's behalf was his friend [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and 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 August 28, 2008, claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.

(2) On December 11, 2008, the Medical Review Team denied claimant's application stating that claimant could perform other work due to having a non-exertional impairment.

(3) On December 16, 2008, the department caseworker sent claimant notice that his application was denied.

(4) On February 4, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On March 5, 2009, the State Hearing Review Team denied claimant's application stating he was capable of performing other work, namely unskilled medium work per Vocational Rule 202.20.

(6) Claimant is a 45 year-old man whose birth date is [REDACTED]. Claimant completed 12th grade in special education. Claimant is not able to read or write well, and does not have basic math skills.

(7) Claimant states that he last worked in the late 1990's pumping gas at a gas station, and before that he worked as a laborer in a window factory. Claimant has lived with his mother on and off all of his life until she died in 2004. Claimant then moved into an apartment with his minor son who was receiving SSI, but the son is now 19, and claimant is living alone.

(8) Claimant alleges as disabling impairments: bad back from deteriorating discs, depression and mental retardation due to IQ of 62.

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).

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).

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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments does not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms)... 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are 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).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

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).

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).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

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).

At Step 1, claimant is not engaged in substantial gainful activity and testified that he has not worked since late 1990's. Claimant is not disqualified from receiving disability at Step 1.

At Step 2, claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for duration of at least 12 months.

The objective medical evidence on the record includes a psychological evaluation by a licensed psychologist of November 5, 2008. (Department's Exhibit I, pages 6-10). Claimant was described as being extremely hypervigilant, fearful, and paranoid, suspicious and fearful of the people in the waiting room, and repeatedly looked out the window and made statements expressing his distrust, fear and anger. Claimant stated he has a bad back that prevents him from employment, high blood pressure, high cholesterol, and severe, chronic pain. Claimant reported being depressed, paranoid, and that there was more than one of him, three of him that sits on his shoulder and talks to him. Claimant reported being always mentally handicapped and in Special Education. Claimant had never been married and lived with his mother throughout his lifetime

until four years ago, when she died. Claimant was currently living with his 18 year old son who helps him out a lot. Claimant stated his mother had helped him get through life, took care of things, and managed his money.

Wechsler Adult Intelligence Scale-III (WAIS-III) testing showed the claimant to be functioning with the Extremely Low range of intelligence. Both his Verbal IQ and Performance IQ fell within this range. All subtest scores fell within a scaled score range of 3 to 5, reflecting consistent cognitive functioning across both language-based and nonlanguage-based areas. Claimant's Verbal IQ was 65, Performance IQ 65, and Full Scale IQ 62.

Wide Range Achievement Test – 4 (WRAT4) results showed the claimant to be severely illiterate. Reading, spelling, and arithmetic all were at or below the 2nd grade level. These results, according to the psychologist, indicate that the claimant would have difficulty functioning in any type of job setting in which academic skills were utilized. Additionally, it is suspected that his illiteracy would make it difficult for him to cope with routine, day-to-day academic tasks. Claimant acknowledged that throughout his life his mother provided assistance to him with academic tasks, and following her death he has struggled a great deal.

Formal Mental Status Exam results cite the claimant as stating he stays to himself and does not socialize, and has a very limited primary support system. Claimant was unable to identify any interests that he has at this time in his life, had no goals, and stated he spends his days watching television and sometimes playing a computer game. Claimant was noted to have a lifelong history of conflict, fighting, and severe social maladjustment, and exhibited evidence of an underlying Paranoid Personality Disorder. Claimant's current GAF was 45, he was not capable of managing own funds, and his prognosis is poor as he is in need of ongoing outpatient psychological treatment.

Evidence presented establishes that the claimant suffers mental limitations. The evidentiary record is sufficient to find claimant suffers a severely restrictive mental impairment. For these reasons, this Administrative Law Judge finds that claimant has met his burden of proof at Step 2.

The analysis proceeds to Step 3 where the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the claimant's medical record will support a finding that claimant's impairment(s) is a "listed impairment" or equal to a listed impairment, that of Mental Retardation, section 12.05. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, claimant can be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). No further analysis is needed.

In conclusion, the claimant has presented the required competent, material, and substantial evidence which would support a finding that the claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). The clinical documentation submitted by the claimant is sufficient to establish a finding that the claimant is disabled for the purposes of the Medical Assistance disability (MA-P) program.

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 claimant does meet the definition of disabled under the MA-P program and because the evidence of record does establish that claimant is unable to

work for a period exceeding 90 days, the claimant does meet the disability criteria for State Disability Assistance benefits also.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied claimant's MA, retroactive MA and SDA application.

Accordingly, department's decision is REVERSED. Department shall:

1. Process claimant's disputed August 28, 2008 MA, retroactive MA and SDA application and grant him any benefits he is otherwise eligible for (i.e. meets financial and non-financial eligibility requirements).
2. Notify the claimant in writing of this determination.
3. Review claimant's medical condition in July, 2010. Claimant is to provide records of any psychological treatment he engaged in during the course of the year, as recommended by the psychologist in November, 2008 exam report.

SO ORDERED.

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

Date Signed: August 17, 2009

Date Mailed: August 18, 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 receipt date of the rehearing decision.

IR [REDACTED]

cc:

[REDACTED]