

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: 2009-26333
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 2, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on November 2, 2009. The Claimant appeared and testified. The Claimant's representative was also present.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant is not "disabled" for purposes of the Medical Assistance (MA) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as a material fact:

1. On April 20, 2009, the Claimant applied for MA-P and retro MA.
2. On April 27, 2009, the Department denied the Claimant's application.
3. On May 11, 2009, the Claimant filed a request for hearing regarding the Department's denial of benefits.

4. The Claimant is 49 years old.
5. The Claimant has a Bachelors degree in Criminal Justice.
6. The Claimant suffers from diabetes, hypertension, [REDACTED] and suffered a myocardial infarction.
7. The Claimant is currently working 15 hours a week cleaning a warehouse for \$8 an hour.
8. DHS 49-D Completed on June 25, 2009 by Claimant's cardiologist based upon an examination on [REDACTED] indicates an ejection fraction of 50% with the Claimant in stable condition, limiting lifting to occasional less than 10lbs, no limitations noted for standing or walking, limited in all activities for hands, arms, legs. The DHS 49- indicates the exam areas for GENERAL as normal.
(Claimant's Exhibit 2 page 1-2)
9. A DHS heart classification form completed on [REDACTED] indicates a Class II functional capacity and Class C therapeutic Classification. (Claimant's Exhibit 2 page 5)
10. DHS 49 completed on June 1, 2009 based upon a last exam date of [REDACTED] by claimant's treating physician indicates all exam areas as normal, limited to frequently lifting a weight of 20lbs, and ability to stand/or walk for 6 hours in an 8 hour day, no limitations noted for hands, arms, legs and feet. (Claimant's Exhibit 2 page 3-4)

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 (formerly known as the Family Independence Agency)

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).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process for evaluating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following steps:

The first sequential step to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant testified he is currently working 15 hours a week for \$8 an hour doing light cleaning in a warehouse. The Claimant was laid off from his previous factory job back in [REDACTED] and collected unemployment. The Claimant testified he is seeking other employment doing light cleaning for higher pay but no additional hours. The Claimant's current work activity falls under SGA.

Second, in order to be considered disabled for purposes of MA, a person must have a “severe impairment” 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities mean the abilities and aptitudes necessary to do most jobs. Examples 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)

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. The court in *Salmi v Sec’y of Health and Human Servs*, 774 F2d 685 (6th Cir 1985) held that an impairment qualifies as “non-severe” only if it “would not affect the claimant’s ability to work,” “regardless of the claimant’s age, education, or prior work experience.” *Id.* At 691-92. Only slight abnormalities that minimally affect a claimant’s ability to work can be considered non-severe. *Higgs v Bowen*, 880 F2d 860, 862 (6th Cir. 1988); *Farris v Sec’y of Health & Human Servs*, 773 F2d 85, 90 (6th Cir 1985).

In this case, the claimant has presented sufficient medical data to support a finding that claimant has some mental and physical limitations, which impact his ability to perform basic work activities.

In the third step of the sequential analysis of a disability claim, 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. Based on the evidence in the hearing record, the undersigned finds that the claimant's medical record does not support a finding that the claimant's impairment(s) meet or equal a listing.

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CFR 416.913. A conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient, without supporting medical evidence, to establish disability. 20 CFR 416.927.

In the fourth step of the sequential evaluation of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevent claimant from doing past relevant work. 20 CFR 416.920(e). Residual functional capacity (RFC) will be assessed based on impairment(s), and any related symptoms, which may cause physical and mental limitations that affect what you can do in a work setting. RFC is the most you can still do despite your limitations. All the relevant medical and other evidence in your case record applies in the assessment. See 20 CFR 416.945. SSR 96-8p discusses RFC in initial claims. The ruling provides in part:

Ordinarily, RFC is an assessment of an individual's ability to do sustained work-related physical and mental activities in a work setting on a regular and continuing basis. A "regular and continuing basis" means 8 hours a day, for 5 days a week, or an equivalent work schedule.

RFC assessment considers only functional limitations and restrictions that result from an individual's medically determinable impairment or combination of impairments, including the impact of any related symptoms. SSR 96-8p (07/02/96) p. 1.

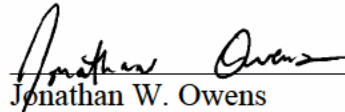
The medical record indicates claimant has some physical limitations by his own statements and records. The Claimant testified he is actively seeking employment and is in fact receiving unemployment benefits. The Claimant testified his diabetes and hypertension were controlled by medications. He is currently not taking any medications for his [REDACTED] infection. The Claimant's heart condition is without chest pains and appears to be improving as indicated by the Claimant's return to employment.

Based on the medical evidence presented and Claimant's statements, this Administrative Law Judge finds that Claimant would be able to perform work on no more than a sedentary level. Claimant is an individual of younger age. 20 CFR 416.963. Claimant's previous work has been unskilled. Federal Rule 20 CFR 404, Subpart P, Appendix 2 contains specific profiles for determining disability based on residual functional capacity and vocational profiles. Under Table 1, Rule 201.22 the claimant is not disabled for the purposes of the Medical Assistance programs.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is not "disabled" for purposes of the Medical Assistance program.

It is ORDERED; the department's determination in this matter is AFFIRMED


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/24/09

Date Mailed: 11/24/09

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 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.

JWO/dj

cc:

