

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.: 2009-2897
Issue No.: 2009/4031
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
February 5, 2009
Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 February 5, 2009. The claimant appeared and testified. The claimant was represented by [REDACTED]. Following the hearing, the record was kept open for receipt of additional medical evidence. Additional documents were received and reviewed.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) 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) On November 19, 2007, claimant filed an application for MA-P and SDA benefits. The application requested MA-P retroactive to October 2007.

- (2) On July 10, 2008, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- (3) On September 4, 2008, claimant filed a hearing request to protest the department's determination.
- (4) Claimant, age 37, has a high school education. Claimant reportedly received special education services throughout his educational experience.
- (5) Claimant last worked in October 2007 as a car wash attendant. Claimant has also performed relevant work as a janitor, parts assembler, cook, and assistant truck delivery person. Claimant's relevant work history consists exclusively of unskilled work activities.
- (6) Claimant has a history of high functioning autism (Asperger's Syndrome) and hypertension controlled with medication.
- (7) In October 2007, after failing to take his blood pressure medication for approximately 4 days, claimant was hospitalized with epigastric pain. A CT revealed an ascending aortic dissection. Claimant underwent surgery for repair. He was discharged from the hospital 7 days following his operation.
- (8) Claimant had an uneventful recovery from his surgery.
- (9) At the hearing, claimant reported that he had fully recovered from his surgery and was actively seeking employment.
- (10) The allegations concerning claimant's impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, do not reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity for a continuous period of not less than 12 months.

(11) At the time of the hearing, claimant was capable of returning to his past work activities and, per his own testimony, was capable of unskilled light work activities on a regular and continuing basis.

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).

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“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

In general, the claimant has the responsibility to prove that he is disabled. Claimant’s impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant’s statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of

medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, claimant is not working. Accordingly, claimant may not be disqualified for MA at this step in the sequential evaluation.

Secondly, the trier of fact must determine if claimant has a severe impairment which meets the durational requirement. Unless the impairment is expected to result in death, it must have lasted or be expected to last for a continuous period of at least 12 months. 20 CFR 416.909. In this case, claimant was employed until October 2007 when he experienced an ascending aortic dissection. He underwent emergency surgery to repair same. Thereafter, claimant had an uneventful recovery. Per his own testimony, claimant had completely recovered from his surgery. At the hearing, claimant reported that he was actively seeking employment. There is not documentation in the record to suggest that claimant's suffer from any residual functional capacity as a result of his aortic dissection and its surgical repair. There is nothing in the record

to suggest that claimant's limitations have or will result in the inability to do any substantial gainful activity for a continuous period of not less than 12 months. Claimant was fully employed at the time of his surgery. The record fails to support the position that claimant was incapable of substantial gainful activity for the 12 months durational requirement. Accordingly, the undersigned must find that the department properly determined that claimant was not eligible for MA based upon disability. Claimant appears to have been fully capable of returning to his past work activities within 12 months of his surgical repair. In addition to claimant's ability to resume past work activities, the record would suggest that he is capable of performing unskilled, light work activities on a regular and continuing basis.

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).

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in PEM Item 261. In this case, there is insufficient medical evidence to support a finding that claimant is or was incapacitated or unable to work under SSI disability standards for at least 90 days. Therefore, the undersigned finds that claimant is not disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not “disabled” for purposes of the Medical Assistance and State Disability Assistance programs.

Accordingly, the department determination in this matter is HEREBY, AFFIRMED.

/s/
Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/28/09

Date Mailed: 07/29/09

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 the Circuit 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.

LSS/jlg

cc:

