

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 200930486
Issue No. 2009/4031
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 1, 2009
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 1, 2009. Claimant personally appeared and testified. He was assisted by his caseworker from [REDACTED]

ISSUE

Did the department properly determine claimant was not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

FINDINGS OF FACT

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

1. Claimant is a single, 43-year-old male with a Special Education history (completed 9th grade); additionally, he has never obtained a driver's license, but his MA application form indicates he obtained a general equivalency diploma (GED)(Department Exhibit #1, pg 10).
2. Claimant has no relevant, substantial gainful work history; however, he worked part-time as a chore services provider in "2005 or 2006," a job subsidized by the Department of Human Services (DHS).
3. Claimant resides with his long-term girlfriend in a rental house in [REDACTED]; their only source of income is her Social Security disability allowance.

4. On April 30, 2009, claimant applied for disability-based medical coverage (MA) and a monthly cash grant (SDA).
5. When the department denied that application claimant filed a hearing request, held by conference telephone on September 1, 2009.
6. Claimant has never been hospitalized for any psychiatric impairments; however, he has an extensive outpatient mental health counseling/treatment history with a local community organization ([REDACTED]).
7. Claimant has an extensive criminal record, having served time in both jail and prison; however, he has not had any further incarcerations since his most recent release from prison in 2002 (Department Exhibit #1, pg 13).
8. On March 31, 2008, claimant underwent an independent psychological evaluation with WAIS III testing which placed him within the borderline range of full scale intelligence (Department Exhibit #1, pg 19).
9. The testing psychologist reported claimant had some symptoms supportive of bipolar disorder, with the following caveat:

I am not sure as to whether these symptoms are induced via a substance abuse behavior. Therefore, I am going to use bipolar disorder NOS on Axis I as well as alcohol abuse in partial remission (Department Exhibit #1, pg 19).
10. Additionally, this psychologist noted claimant has an Antisocial Personality Disorder, and also, he reported several situational stressors related to claimant's lack of money (financial problems unemployment, socialization and primary support group) (Department Exhibit #1, pg 19).
11. On July 10, 2009, claimant underwent an independent physical examination during which he claimed he was suffering from arthritis and a bad back; however, the report notes claimant was not taking any prescription pain medications and he needed no assistive devices to ambulate (Department Exhibit #3, pg 58).

12. Furthermore, claimant's range of motion testing did not verify any abnormalities; additionally, all his other body systems tested as unimpaired (Department Exhibit #3, pgs 59-62).
13. On September 10, 2009, claimant's treating mental health provider confirmed a clear-cut traumatic developmental/catastrophic history which led to claimant's current PTSD diagnosis (See Updated Report submitted post-hearing, pgs 1-4).
14. Claimant's ongoing psychotropic medications include: 1) ██████████, which claimant acknowledges assists in stabilizing his sleep but makes him very uncomfortable (groggy) in the morning and 2) ██████████, which is somewhat helpful (he notes he is less quick to anger and he can walk away from situations a bit easier)(See Updated Report submitted post-hearing pg 1).
15. Claimant stated at hearing the only other medication he takes regularly is ██████████ to assist in management of the usual GERD symptoms.

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).

Statutory authority for the SDA program states in part:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Michigan administers the federal MA program. In assessing eligibility, Michigan defers to the federal guidelines in determining both MA and SDA eligibility. These guidelines state in relevant part:

"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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further....
20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

At application, claimant has the burden of proof pursuant to the following section:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

The federal regulations are very specific regarding the type of medical evidence required from claimant to establish disability. The regulations essentially require laboratory or clinical reports consistent with claimant's self-reported symptoms, or with his/her treating providers' statements regarding disability or the lack thereof. These regulations state in part:

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).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

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

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant remains eligible at the first step since he is not currently working, and he has not been gainfully employed in many years. 20 CFR 416.920(b). As such, the analysis must continue.

The second step of the analysis assesses the severity of all documented impairments. 20 CFR 416.920(c). This step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge finds severity is met. As such, the analysis must continue.

The third step of the analysis looks at whether an individual meets or equals one of the listed impairments. 20 CFR 416.920(d). Claimant does not; consequently, the analysis must continue.

The fourth step of the analysis looks at the ability of the applicant to return to his or her past relevant work. This step does not apply because claimant has no relevant substantial gainful work history. Therefore, this analysis will proceed to the very last step required under the applicable law.

The fifth and final step of the analysis applies the biographical data of each applicant to the Medical-Vocational Grid Rules to determine the functional capacity of the applicant to do any work. 20 CFR 416.920(f). After a careful review of the credible evidence submitted, this Administrative Law Judge finds Medical-Vocational Grid Rule 203.28 directs a finding of not disabled.

In reaching this conclusion, this Administrative Law Judge considered claimant's age, education, limited work history and social history in light of his documented physical and mental impairments. She finds insufficient evidence to indicate these conditions, standing alone or combined, would interfere with claimant's ability to engage in any number of unskilled, low stress work currently existing in the national economy, which is the standard to be applied in disability determination cases. This finding is consistent with the department's State Hearing Review Team (SHRT) post-hearing decision dated February 4, 2010. Put simply, when taken as a whole, the evidence in this file fails to meet the regulatory requirements necessary to qualify for disability-based MA or SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's April 30, 2009 MA/SDA application based on a finding he does not meet the rules necessary to qualify for either program.

Accordingly, the department's action is AFFIRMED.

/S/

Marlene B. Magyar
Administrative Law Judge
for Duane Berger, Acting Director
Department of Human Services

Date Signed: January 12, 2010

Date Mailed: January 12, 2010

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 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.

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