

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.:2009-34154
Issue No.: 2009, 4031
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 27, 2009
Washtenaw County DHS (20)

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 October 27, 2009. The claimant appeared and testified. Claimant was represented at the hearing by [REDACTED]

ISSUE

Whether claimant meets the disability criteria 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 a material fact:

- (1) On January 27, 2009, claimant filed an application for Medical Assistance, State Disability Assistance and retroactive Medical Assistance benefits.
- (2) On April 6, 2009, the Medical Review Team denied claimant's application stating that claimant could perform other work.
- (3) On April 8, 2009, the department caseworker sent claimant notice that his application was denied.
- (4) On June 16, 2009, claimant filed a request for a hearing to contest the department's negative action.

- (5) On September 17, 2009, the State Hearing Review Team again denied claimant's application stating that claimant is incapable of performing other in the form of medium work per 20 CFR 416.967(c) pursuant to Medical Vocational Rule 203.30.
- (6) The hearing was held on October 27, 2009. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) Additional Medical information was submitted and sent to the State Hearing Review Team on July 6, 2010.
- (8) On July 6, 2010, the State Hearing Review Team approved claimant for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits stating in its' recommendation: the Social Security ALJ approved this claimant's for benefits in June 2010. At this point it is not clear whether the claimant has been put into payment status or not as SHRT is unable to check payment status. However, it is anticipated that he will be placed into payment status. Therefore, MA-P/retro MA-P is approved effective October 2008. SDA is approved per PEM 261. At the medical review of July 2011, please check to see if the claimant is in current payment status or not. If the claimant is in current payment status at medical review no further action will be necessary. However, if the claimant is not in current payment status at the medical review in July 2011, please obtain updated application forms (DHS-49 forms) and obtain updated medical records.
- (9) Claimant is a 33-year-old man whose birth-date is [REDACTED]. Claimant is 6' tall and weighs 358 pounds. Claimant is a high school graduate and is able to read and write and does have basic math skills.
- (10) Claimant last worked September 2008 at a [REDACTED] making parts. Claimant has also worked building homes and in construction.
- (11) Claimant alleges as disabling impairments: seizures, diabetes mellitus, sleep apnea, underactive thyroid, back pain and memory problems.

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 (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 *et seq.*, and MAC 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).

The Medical Assistance (MA) program is established by the 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). 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 do 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).

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).

Because of the Social Security Administration determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability. PEM, Item 260; the department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically disabled under the Medical Assistance program as of October 2008 and the State Disability assistance program as of the January 27, 2009, application date.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the January 27, 2009, application if it has not already done so to determine if all other non-medical criteria are met. The department shall inform the claimant of the determination in writing. In addition, the department is ORDERED to conduct a medical review in July 2011, if claimant is not in current payment status with the Social Security Administration. At that time, if the claimant is not in current payment status the department is to assist claimant in obtaining updated application forms, DHS-49 forms, and obtain updated medical records.

/s/

Landis Y. Lain
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: July 12, 2010

Date Mailed: July 13, 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 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.

LYL/alc

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