

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

IN THE MATTER OF:



Reg No. 200934724  
Issue No. 2009/4031  
Case No. [REDACTED]  
Load No. [REDACTED]  
Hearing Date: October 14, 2009  
Ingham 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 October 14, 2009. Claimant personally appeared and testified.

**ISSUE**

Did the department properly determine claimant is 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, 41-year-old smoker with a limited education (completed 8<sup>th</sup> grade) who suffered a dominant, right hand injury at work on August 17, 1999, when that hand was caught/crushed in a spring-loaded roller; he has not gainfully employed since then (Department Exhibit #1, pg 6; Department Exhibit #2, pg 1; Client Exhibit A, pg 6).
2. Claimant was treated in the emergency room the day this injury occurred, followed by extensive physical therapy.
3. On June 25, 2009, claimant applied for disability-based medical coverage (MA) and a monthly cash grant (SDA) because his grandmother was his only means of financial support, in addition to

ongoing Food Assistance Program (FAP) benefits provided by the Department of Human Services (DHS).

4. Claimant alleges disability based solely on his dominant, right hand residuals.
5. By June 13, 2000 (one year post-injury), claimant's treating hand specialist noted:

Return visit for his right hand crush injury. He reports doing well.

On exam, he has made remarkable progress with therapy. He can make nearly a composite fist after working therapy and he just had the paraffin bath today.

His therapy should continue until we have consistently gained full motion. Work restriction is light duty use of the hand (Client Exhibit A, pg 10).

6. On March 12, 2001, claimant's treating hand specialist assessed claimant's condition as follows:

...He was last seen in follow-up 8 August 2000. At that time he was improving. Follow-up was scheduled for 25 September 2000 and subsequently for 15 January 2001. The patient did not keep either one of those appointments. I do think it would be reasonable to assume that he is at maximal medical improvement. The date of maximal medical improvement could be assumed 15 January 2001, as this was his last scheduled appointment. His impairment rating is more difficult, as he did not return for final range of motion measurements. If an estimate is useful, I would estimate this based upon his motion limitations as indicated generally in the 8 August 2000 note. My estimate would be 10% impairment for the upper extremity. This value certainly could be dependent upon his final range of motion.

He would also have a full duty work release at this time (Client Exhibit A, pg 14).

7. Likewise, claimant exhibited no compromise in any right hand orthopedic maneuvers during an independent examination on April 29, 2009, and also no mental impairments were detected during an independent psychological examination conducted on May 18, 2009 (GAF=65: normal)(Department Exhibit #1, pg 14; Department Exhibit #2, pgs 1-4).

### **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 (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

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

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 his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for 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. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, 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 416.929

...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).

...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).

...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).

Specifically, Social Security Ruling 96-4p (SSR 96-4p) states in relevant part:

A "symptom" is not a "medically determinable physical or mental impairment" and no symptom by itself can establish an existence of such an impairment. In the absence of a showing that there is a "medically determinable physical or mental impairment," an individual must be found not disabled at Step 2 of the sequential

evaluation process. No symptom or combination of symptoms can be the basis for a finding of disability, no matter how genuine the individual's complaints may appear to be, unless there are medical signs and laboratory findings demonstrating the existence of a medically determinable physical or mental impairment.

In addition, 20 CFR 404.1529 and 416.929 provide that an individual's symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect the individual's ability to do basic work activities...unless medical signs and laboratory findings show that there is a medically determinable physical or mental impairment(s) that could reasonably be expected to produce the symptom(s) alleged.

...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).

...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).

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).

...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).

...Evidence that you submit or that we obtain 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 your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite

impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

Claimant does not qualify for the MA/SDA coverage he seeks because none of the objective reports from his treating specialist or the independent examiners reveals a physical or mental impairment of the severity and continuous durations required under MA/SDA rules.

In fact, claimant is fully capable of all activities of daily living. Furthermore, as of the disability hearing date, absolutely no prescription medications were being used. Consequently, this Administrative Law Judge finds claimant's medical records evidence a completely successful recovery which has left him with the residual functional capacity to perform a wide variety of simple, unskilled jobs currently existing in the national economy, which is the standard to be applied in disability determination cases. As such, claimant's June 25, 2009 MA/SDA application must remain denied based on lack of severity shown.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled by MA/SDA eligibility standards.

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, 2011

Date Mailed: January 13, 2011

**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.

MBM/db

cc:

