

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2009532
Issue No: 2009
Hearing Date: March 30, 2010
Isabella County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

REHEARING 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, an in-person rehearing was held on March 30, 2010. Claimant was represented [REDACTED].

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) application?

PROCEDURAL HISTORY

1. On July 24, 2008, claimant had an in-person administrative hearing before Judge William Sundquist in [REDACTED]. On September 5, 2008, Judge Sundquist issued a Decision and Order upholding the department's denial of claimant's MA.
2. On September 28, 2008, SOAHR received a request for reconsideration submitted by claimant's representative indicating that the Administrative Law Judge had refused to leave the record open for an upcoming medical appointment.
3. On November 20, 2009, SOAHR granted claimant's request for reconsideration and it issued an Order for Reconsideration signed by Judge Martin Snider.
4. On March 2, 2010, Supervisory Judge Rhonda Craig, Manager of the Detroit Office issued a decision titled "Order Granting Rehearing."

5. The supervisory of judges assigned the case to the undersigned Administrative Law Judge—Janice Spodarek.
6. On March 30, 2010, the undersigned Administrative Law Judge held an in-person rehearing in [REDACTED]
7. The undersigned Administrative Law Judge issued new medicals to SHRT who subsequently denied for insufficient information.
8. On April 22, 2010, the undersigned Administrative Law Judge issued an Order Leaving the Record Open for Insufficient Information. Pursuant to a subsequent review of the Interim Order documentation and evidence, SHRT partially approved and partially denied claimant. SHRT's decision is ambiguous indicating approval for June 1, 2010 and denial for June 1, 2010.

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 June 19, 2007, claimant applied for MA with the Michigan Department of Human Services (DHS).
2. Claimant applied for 3 months of retro MA.
3. On February 1, 2008, the MRT denied.
4. On February 5, 2008, the DHS issued notice.
5. On February 25, 2008, claimant filed a hearing request.
6. On April 20, 2011, the undersigned Administrative Law Judge received an updated SOLQ from SSA. There is no data on the SOLQ. Testimony at the administrative hearing was that claimant receives workers comp which puts him over the income level for Social Security.
7. SHRT has denied this case on at least three occasions, including denying for insufficient information. SHRT has also has also issued a decision which indicates claimant was approved on June 1, 2010 and denied on June 1, 2010. It is unclear what the SHRT decision was to indicate.
8. As of the date of application, claimant was a 48-year-old male standing 5'10 1/2" tall and weighing 240 pounds. Claimant has a 12th grade education.

9. Claimant does not have an alcohol/drug abuse problem or history. Claimant smokes and has a nicotine addiction.
10. Claimant is not currently working. Claimant collects workers comp. Claimant has a settlement of [REDACTED] per week. Claimant testified that he does not have enough work credits for RSDI.
11. Claimant alleges disability on the basis of multiple impairments, including left renal mass, chronic back pain, chronic lacrimation secondary to GBS, Guillain-Barre leaving claimant with chronic tearing of the eyes, interior spondylosis of L5 in relation to S1 due to underlining spondylosis.
12. Claimant submitted over 200 documents/exhibits of medical evidence showing that claimant meets statutory disability.

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).

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 CFR 416.901). DHS, 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. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent 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.

The federal regulations require that several considerations be analyzed in sequential order:

...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.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. 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 no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
5. 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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...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).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. 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 sure, 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 is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant cannot return to past relevant work on the basis of the medical evidence. The analysis continues.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge finds claimant cannot do a full range of sedentary work on the basis of Medical Vocational Grid Rule 201.00(h). In reaching this conclusion, it is noted that SHRT did subsequently approve claimant. It is also noted that claimant alleges multiple impairments and the considerations at 20 CFR 416.922 play a significant role. As this hearing was a *de novo* rehearing, this Administrative Law Judge need not independently examine Judge Sundquist's Decision and Order. The department's denial is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's initial determination denying claimant MA-P is hereby REVERSED.

It is noted that the original hearing decision by Judge Sundquist dated September 8, 2008 was vacated on March 2, 2010 by Judge Craig. The undersigned Administrative Law Judge held a *de novo* rehearing on March 30, 2010 and reversed the department's determination pursuant to the June 19, 2007 application, including two months of retro.

/s/_____

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 17, 2011

Date Mailed: May 17, 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 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.

JGS/db

cc:

