

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: 2009-10849
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 5, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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, an in-person hearing was held on May 5, 2009.

ISSUE

Was mental disability medically established?

FINDINGS OF FACT

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

- (1) Negative action: Medicaid/SDA application on July 10, 2008 was denied on December 2, 2008 per PEM 260/261.
- (2) Vocational factors: age 47, GED, and past semi-skilled work in a home for the handicapped, semi-skilled hotel clerk, and semi-skilled job as a manager in a hotel.
- (3) Substantial gainful activity: not since October 2007.

(4) Disabling symptoms/complaints: difficulty understanding, difficulty being around people, and difficulty with persons of authority; intermittent pain in forehead, chronic back pain, weak right knee (former right knee replacement), cane prescribed by doctor, chronic pain in left side of rib cage area, intermittent soreness in left breast, and difficulty adjusting to the correct medications.

(5) Medical reports:

[Mental Impairment]

- (a) [REDACTED] report states that the claimant's current last year GAF score of 45 (Medical Packet, page 20).
- (b) [REDACTED] report states the claimant's Axis V of 48 (Medical Packet, page 47).

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).

Facts above are undisputed.

"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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean 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).

The burden of proof is on the claimant established by the preponderance of the medical evidence that she has established Medicaid/SDA, as defined above. PEM 260/261.

Five steps are followed in the determination of disability. If disability cannot be determined, at any point in the review, this step evaluation stops. 20 CFR 416.920(a).

Step #1

Current work activity. Regardless of your medical condition, you are not disabled if you are performing substantial gainful work. 20 CFR 416.920(a).

The claimant was not working on date of application, nor currently. Therefore, the sequential evaluation continues to Step 2.

Step #2

Impairment severity/duration.

Disability requires the establishment of a severe impairment, as defined above, which has lasted or can be expected to last for continuous 12-month duration (90 days for SDA). Your impairment must be severe and meet the duration requirement before you can be determined disabled. Age, education and work experience are not considered at this step. 20 CFR 416.920(a) and (b).

The above-mentioned medical show the claimant's GAF scores less than 50, one year before application and three months after application. This is considered a person with a severe mental impairment and unable to keep a job. [REDACTED]

[REDACTED] Therefore, disability has been established under Step 2.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that mental disability was medically established.

Medicaid/SDA denial is REVERSED.

Medical review suggested in May 2010.

/s/ _____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 28, 2009

Date Mailed: May 29, 2009

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.

WAS/tg

cc:

