

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: 2009-15236  
Issue No: 2009, 4031  
Case No. [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
May 21, 2009  
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra Wright

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, a telephone hearing was held on May 21, 2009. Claimant appeared and testified. A family independence manager and an eligibility specialist represented the Department.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA), retroactive MA and State Disability Assistance (SDA) programs?

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 applied for Medicaid (MA-P), retroactive MA and SDA benefits due to a disability on November 13, 2008.
- (2) The Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for State Disability and Medicaid in January 2009.

- (3) On March 13, 2009, the State Hearing Review Team also denied eligibility again on the grounds that Claimant is “capable of performing other work.”
- (4) Claimant was 30 years old with a birth date of [REDACTED] at the time of the hearing. Claimant is 6’4” and weighs 200 pounds. He is right hand dominant. Claimant completed high school and 12 credit hours of college. Claimant has worked for 13 years as a carpenter. Currently, Claimant is not employed. He was last employed one year ago as a pallet technician, repairing pallets from January through May 2008. He was laid off from this position.
- (5) Claimant was once a smoker but has quit. He denied using drugs or alcohol. Claimant’s medical evaluation from [REDACTED] states that he had history of past alcohol and drug use (Exhibit 9). According to the SHRT decision dated March 13, 2008, Claimant completed an inpatient drug treatment program in October 2008. (See also Exhibit 15).
- (6) Claimant has a driver’s license but does not drive due to his injury.
- (7) In October 2008, claimant was playing on the floor with his 4-year-old son when the son accidentally jumped on Claimant’s neck. The next morning, Claimant was in pain which continued until he sought medical treatment at a hospital. Since the injury Claimant has complained of several neck pains that radiates through his right shoulder and arm, numbness in the fingers of his right hand, intermittent muscle spasms in the bicep of his right arm.
- (8) A medical evaluation resulted in a diagnosis that Claimant has a herniated disc at the C-6, C-7 area, with right-sided radiculopathy and spinal stenosis. (Exhibit 5-6).

- (9) Claimant takes the two non-narcotic based pain medications, Suboxone and Ultram, as well as Ibruprofen.
- (10) Claimant complains of severe pain that rendered him almost totally bedridden for three months after his injury. He cannot lift more than 10 pounds. Claimant is in constant pain and cannot sit more than one hour, can't stand more than 45 minutes and can't walk more than 30 minutes without the pain becoming unbearable.
- (11) Claimant is unable to perform any housework, can't shop for groceries, or drive due to his injury.
- (12) The Department received Claimant's hearing request on February 10, 2009.

#### 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA 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 (formerly known as the Family Independence Agency) 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 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

Pursuant to 20 CFR 416.920 a five step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b). In this case, Claimant is not employed. He last worked repairing pallets in May 2008 before being laid off.

Secondly, the individual must have an impairment that must have lasted or must be expected to last for a continuous period of at least 12 months. This is the "durational requirement." 20 CFR 416.909. In this case, Claimant's impairments, a herniated disc at the C-6 and C-7 level can be expected to last longer than 12 months.

The third step in the process is to assess whether the impairment or combination of impairments significantly limits an individual's physical or mental ability to perform basic work activities. If these abilities are not significantly limited, an individual does not have a severe impairment and is therefore not disabled. 20 CFR 416.920(c). In this case, the Claimant's combination of impairments significantly limits his physical ability to perform basic work activities. Claimant complains of severe pain that rendered him almost totally bedridden for three

months after his injury. He cannot lift more than 10 pounds. Claimant is in constant pain and cannot sit more than one hour, can't stand more than 45 minutes and can't walk more than 30 minutes without the pain becoming unbearable.

In the fourth step of the process the social security listing in appendix 1 is used. If the impairment or combination of impairments meet or is the medically equivalent of a listed impairment as set forth in appendix 1, the individual is considered disabled. If not, vocational factors are considered. 20 CFR 416.920(d). In the instant case, Claimant's combined impairments are not the medical equivalent of a listed impairment under Part 404, Subpart P. Listing of Impairments.

In the fifth step an individual's residual functional capacity (RFC) is considered in determining whether disability exists. Part 404, Subpart P, App. 2. An individual's age, education, work experience and skills are use to evaluated whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e). In the present case, Claimant is a younger individual, with a high school education, and an unskilled work history. Under rule 201.27 at Table No. 1, Residual Functional Capacity: Maximum Sustained Work Capability Limited to Sedentary Work as a Result of Severe Medically Determined Impairment(s), Claimant is not disabled. Therefore, it is found that Claimant does not qualify for MA based on disability and is not disabled for purposes of the SDA program.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant does not meet the definition of medically disabled under the MA program as of his application on November 13, 2008. Retroactive MA is also not applicable.

Accordingly, the Department's determination is AFFIRMED.

/s/  
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Tyra L. Wright  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 05/28/09

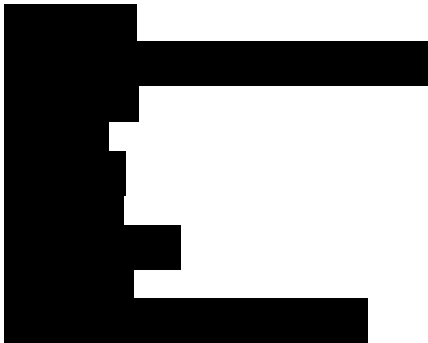
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**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or 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.

TW/dj

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