

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No: 2009-21901

Issue No: 2009

Case No: ██████████

Load No: ██████████

Hearing Date:

June 29, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on June 29, 2009. Claimant appeared and testified.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant is not "disabled" for purposes of the Medical Assistance (MA) program?

FINDINGS OF FACT

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

1. On February 17, 2009, the Claimant applied for MA-P and retro MA.
2. MRT denied Claimant's request for MA.
3. On March 12, 2009, the Claimant filed a request for hearing regarding the Department's denial of benefits.
4. The Claimant is 49 years old.

5. The Claimant has high school diploma and 2 years of college.
6. The Claimant suffers from deep vein thrombosis, pulmonary emboli, sleep apnea, blood clots, anemia, obesity, bad knees, arthritis, GERD, acid reflux.
7. The Claimant testified to suffering with the following symptoms: swelling in different parts of body due to clots, very painful, poor sleep on 2-3 hours a day, gets light headed, knees are painful, struggles to move around, can't lift more than 10 lbs, can't stand more than 10 minutes, lower back pain and has back spasms, knees give out, wears brace on knees, can't sit more than 30 minutes due to clotting issues, elevates legs to help control swelling, blurry vision, shortness of breath on occasion, can't bend well, struggles to get up and down, can walk 2 blocks at most.
8. On [REDACTED], the Claimant's physician indicated the following: listed his condition as stable and limited him to lifting 10lbs frequently, sitting less than 6 hours in an 8 hour day and no other limitations. This same doctor indicated, on [REDACTED], the Claimant's condition as improving indicating lifting limits up to 10lbs frequently, stand/walk at least 2 hours in an 8 hour day and no limitations on sitting or any other area.
9. On [REDACTED], the Claimant's treating doctor indicated the following: his condition was stable and limited him to occasionally lifting less than 10lbs, stand or walk less than 2 hours in an 8 hour day, no sitting limitations and no other limitations noted.
10. The Claimant's limitations have not lasted for 12 months or more.

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 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 R 416.901). The Department, 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.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process for evaluating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following factors:

The first factor to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant is not working.

Therefore, the Claimant is not disqualified at this step in the evaluation. However the Claimant testified he was in fact searching for employment at the time of hearing on the internet.

The second step to be determined in considering whether the Claimant is considered disabled is whether the severity of the impairment. In order to qualify, the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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).

In this case, the Claimant's medical evidence of record does not support a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63. However, this Administrative Law Judge will continue with step process.

In the third step of the analysis, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record does not

support a finding that the Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A.

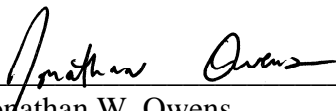
The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CFR 416.913. 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 416.927.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, the Claimant's past employment was a purchasing manager, supplier analyst and credit manager. All past employment would be considered light work. Therefore, the Claimant is not disabled and is capable of performing past relevant work.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is not disabled.

Accordingly, the Department decision is hereby UPHELD.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 02/18/10

Date Mailed: 02/19/10

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.

JWO/dj

cc:

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