

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

IN THE MATTER OF:

[REDACTED]

Reg No. 200930128
Issue No. 2009/4031
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 29, 2009
St Clair 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, an in-person hearing was held on September 29, 2009. Claimant personally appeared and testified. He was assisted by Steven Hosmer, a patient advocate from [REDACTED]

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, 49-year-old high school graduate who lives alone in [REDACTED] he has a valid driver's license but no vehicle.
2. Claimant stands approximately 5'8" tall and is medically obese at approximately 250 pounds (BMI=38.0).
3. Claimant has a remote history of sporadic, unskilled work, but he has remained unemployed since leaving a [REDACTED] job in 2006, per self report.

4. Claimant has been diagnosed with high cholesterol/high blood pressure not uncommon in obesity patients and currently under adequate control with prescription medications (Department Exhibit #1, pg 47).
5. On December 18, 2008, claimant applied for disability-based medical coverage (MA) and a monthly cash grant (SDA).
6. Claimant has a cardiac treatment history; he reported LAD stent placement in 2002 during a brief, 2008 hospitalization (9/24/08-9/26/08) which resulted in balloon stenting of claimant's mid right coronary artery due to a 90% stenosis discovered via standard cardiac testing (Department Exhibit #1, pgs 13, 26-27 and 29-30).
7. At discharge, claimant's blocked artery was completely resolved and his ejection fraction was 55% (normal)(Department Exhibit #1, pgs 21-25).
8. In December 2008 claimant was hospitalized again with recurring chest pains (angina pectoris) caused by a 70% plaque build-up (restenosis) in the mid portion of his circumflex artery which necessitated percutaneous coronary intervention (PCI) stenting (Department Exhibit #1, pgs 11-20).
9. Claimant has a remote history of left leg iliofemoral by-pass grafting (1982); however, during an independent physical examination conducted in January 2009 no remaining severe peripheral arterial disease was noted; additionally, claimant's gait was stable and his range of motion testing revealed only minor restrictions in the cervical/lumbar areas (Department Exhibit #1, pgs 44-48).
10. In May 2009, claimant's cardiologist completed the standard functional capacity assessment for patients with a history of cardiac disease; claimant scored at the Class II/C level (slight to moderate limitations)(Department Exhibit #1, pg 54).
11. On September 10, 2009, claimant underwent a physical examination with his treating cardiologist, who again noted no significant arterial or venous insufficiency to account for claimant's self-reported symptoms (debilitating leg/low back pain)(See New Medical Evidence submitted post-hearing, pgs 1 and 2).

12. As of claimant's disability hearing date (9/29/09) he stated he continues to take [REDACTED] and a prescription sleep aid for symptom management as well as sublingual nitroglycerine tablets when needed for intermittent chest pain, in addition to the high blood pressure/high cholesterol medications referenced in Finding of Fact #4 above).
13. Claimant currently takes no psychotropic medications nor is he involved in any mental health treatment or counseling; furthermore, the medical records submitted to date do not support a finding claimant has any severe mental, emotional or cognitive impairments which would preclude substantial gainful work activity.

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).

Michigan administers the federal MA program. In assessing eligibility, Michigan defers to the federal guidelines. These federal guidelines state in 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.

...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).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...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).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

At application, claimant has the burden of proof pursuant to the following section:

...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).

The federal regulations are very specific regarding the type of medical evidence required by claimant to establish disability. The regulations essentially require laboratory or clinical medical reports consistent with claimant's self-reported symptoms, or with his/her treating doctor's statements regarding disability or the lack thereof. 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 blood pressure, 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).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

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).

Applying the sequential analysis herein, claimant remains eligible at the first step since he is not currently working, and he has not worked in several years. 20 CFR 416.920(b). As such, the analysis must continue.

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 finds claimant meets both. As such, the analysis must continue.

The third step of the analysis looks at whether an applicant meets or equals one of the listed impairments. 20 CFR 416.920(d). Claimant does not. As such, the analysis must continue.

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(e). The evidence of record reveals claimant's remote work history involved mostly medium to heavy exertional, unskilled labor jobs (construction, land survey, cooking, clerking)(Department Exhibit #1, pg 36).

In this case, this Administrative Law Judge finds claimant cannot return to his past relevant work on the basis of the medical evidence presented, which verifies ongoing Class II/C cardiac residuals beyond his current capabilities. As such, this analysis must continue.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grid Rules to determine the functional capacity of the applicant to do other work. 20 CFR 416.920(f). After a careful review of the credible medical evidence presented, this Administrative Law Judge finds Medical-Vocational Grid Rule 202.20 directs a finding of not disabled. Put simply, there is insufficient medical documentation to indicate claimant's condition would prevent his return to other work, specifically, light unskilled work as that term is defined above. Therefore, claimant's disputed MA/SDA application must remain denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's

December 18, 2008 MA/SDA application based on a finding he does not meet the criteria necessary to establish eligibility for either program.

Accordingly, the department's application denial action is AFFIRMED.

/s/
Marlene B. Magyar
Administrative Law Judge
for Duane Berger, Acting Director
Department of Human Services

Date Signed: January 14, 2011

Date Mailed: January 18, 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

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