

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: 2009-34155
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2009
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 October 27, 2009. Claimant did not appear to testify at the hearing. Claimant was represented by at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

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 March 17, 2009, claimant filed an application for Medical Assistance, retroactive Medical Assistance, and State Disability Assistance benefits alleging disability.

(2) On March 28, 2009, the Medical Review Team denied claimant's application stating that claimant could perform other work.

(3) On June 6, 2009, the department caseworker sent claimant notice that his application was denied.

(4) On July 20, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On September 16, 2009, the State Hearing Review Team requested additional medical information and denied claimant's application stating that they had insufficient evidence.

(6) The hearing was held on October 27, 2009. Claimant did not appear to testify and the [REDACTED] representative indicated that the Administrative Law Judge should make a decision based upon the medical information contained in the file.

(7) Claimant alleges as disabling impairments: a pseudotumor cerebri, sleep apnea, high blood pressure, vision problems, and borderline diabetes.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) 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).

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).

Pursuant to Federal Rule 42 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

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...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).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are 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).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
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 416.920(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? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(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. 20 CFR 416.920(e).
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? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, claimant is not engaged in substantial gainful activity. The information in the file indicates that claimant, at one time, worked for [REDACTED] and left in 2004. Claimant is not disqualified from receiving disability at Step 1.

The objective medical evidence on the record indicates that on [REDACTED] claimant was examined at the [REDACTED] and it was determined that claimant had bilateral disc edema. He had a CT of the head which was normal. He had a lumbar puncture which showed an opening pressure of 550 and normal CSF constituents. He was started on [REDACTED]. The claimant also had a sleep study which showed sleep apnea. A BiPAP machine was recommended by his insurance wouldn't cover it. On examination, his visual acuity was 20/20 on the right and 20/50 on the left. There was a left afferent pupillary defect. He continued to have bilateral marked disc swelling. Humphrey visual fields showed nerve fiber bundle defects, left greater than right. Claimant had pseudotumor cerebri due to a combination of his weight and sleep apnea.

On [REDACTED], the claimant's visual acuity was 20/20 on the right and 20/25 on the left. Pupils were equally round and reactive to light without afferent pupillary defect. Extraocular movements were full. There was 11/11 Ishihara color plates on the right and 2/11 on the left. Humphrey visual fields showed bilateral nerve fiber bundle defects, left greater than right. Slit lamp examination was unremarkable and on applanation tonometry, pressures were 22

mmHg on the right 23 mmHg on the left. There was right greater than left disc elevation. There was a widened palpebral fissure on the right. There was unclear lid lag. Retropulsion was normal.

On [REDACTED] claimant had a placement of a left frontal Codman ICP monitor. On examination of [REDACTED], claimant was a morbidly obese 39-year-old man. He stood 6' tall and 420 pounds. He was awake and oriented. His face activated symmetrically. Tongue and uvula were midline. Strength was 5/5 and symmetric. Claimant had a history of idiopathic intracranial hypertension. He has had progressive visual loss and was found to have papilledema. (p. 13)

The medical reports indicate that claimant has completed two years of college and he stated on his application that he has asthma and he's allergic to [REDACTED] eardrops. He had problems years ago with drugs and alcohol, but is clean now. He has a problems sitting and standing because of his weight. He also has problems with walking. He has problems with vision and blurred vision and he's tired and in pain. Another worker's observations and comments indicate that claimant stated he was allergic to [REDACTED] eardrops and has breathing problems and sleep apnea, asthma, and sarcoidosis. He has vision problems seeing spots that make him dizzy and he does have fatigue which comes from sleep apnea. He has joint pain and he does have a problem with standing for periods of time. He has problems with walking because of shortness of breath. He had a heart attack last year, heart catheterization. He has high blood pressure and sarcoidosis and has problems with his lungs. His obesity is some of the problem. He had a heart attack and didn't know it. He has never been treated for sarcoidosis because he has no medical insurance and because of his vision problems the physicians think he may be diabetic.

At Step 2, claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical medical evidence in the record that claimant suffers a severely restrictive physical or mental impairment. In addition, claimant did not appear to testify at the hearing so this Administrative Law Judge could not make a personal assessment of claimant's ability to work. There is no medical finding that claimant has any muscle atrophy or trauma, abnormality or injury that is consistent with a deteriorating condition. There is some evidence that claimant does have some problems with his eyesight, but his eyesight is basically normal based upon the tests from [REDACTED] [REDACTED] Reported symptoms are an insufficient basis upon which a finding that claimant has met the evidentiary burden of proof can be made. This Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restrictive physical or mental impairment.

There is no evidence in the record indicating claimant suffers mental limitations. There is no Mental Residual Functional Capacity Assessment in the record. There is no Physical Residual Functional Capacity Assessment in the record. The evidentiary record is insufficient to find that claimant suffers a severely restrictive physical or mental impairment. For these reasons, this Administrative Law Judge finds that claimant has failed to meet his burden of proof at Step 2. Claimant must be denied benefits at this step based upon his failure to meet the evidentiary burden.

If claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of claimant's condition does not give rise to a finding that he would meet a statutory listing in the code of federal regulations.

If claimant had not already been denied at Step 2, this Administrative Law Judge would have to deny him again at Step 4 based upon the fact that claimant did not appear to testify at the hearing, and this Administrative Law Judge had no opportunity to assess whether or not claimant can perform his prior work. Therefore, claimant is denied benefits at Step 4 also.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. PEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits.

Accordingly, the department's decision is AFFIRMED.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 19, 2010

Date Mailed: January 19, 2010

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.

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