

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg No. 200936309
Issue No. 2009/4031
Case No. [REDACTED]
Hearing Date: October 21, 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, a telephone hearing was held on October 21, 2009. Claimant personally appeared and testified.

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, 45-year-old male with a 2006 Associates' Degree from [REDACTED]
2. On April 16, 2009, the department received verification from [REDACTED] stating claimant's expected program completion date was June 30, 2009 (Department Exhibit #1, pg 155).
3. Because the closure of claimant's [REDACTED] case appeared imminent, the local office processed a disability-based MA/SDA application for claimant, which he signed, on May 5, 2009 (Department Exhibit #1, pgs 1-6).
4. When the local office denied claimant's disability application he filed a written hearing request dated August 4, 2009.

5. Claimant's hearing was held by telephone conference on October 21, 2009.
6. As of the hearing date, claimant was attending [REDACTED] in an attempt to earn a Bachelors' Degree in Public Relations; additionally, he stipulated on the record he was actively engaged in looking for a job.
7. Claimant's most recent job was during 2006-2007, when he provided unskilled home help services to the elderly/infirm with payment for doing so coming from the department's chore services program. Claimant has been unemployed since he left that job, per self report.
8. Claimant has an extensive polysubstance abuse history (i.e., [REDACTED]); initially, he spent 28 days in [REDACTED] (discharge date: 4/7/07) (Department Exhibit #1, pg 32).
9. Claimant reported at hearing he was also hospitalized in 2008 for detox, but he said he still has periodic alcohol relapses.
10. Claimant has the following mental impairments according to his outpatient treatment facility ([REDACTED]) per a Psychiatric/Psychological Examination Report (DHS-49D) signed by his case manager on [REDACTED] 1) Bipolar Disorder; 2) Panic Disorder; and 3) Polysubstance Dependence (Department Exhibit #1, pgs 68 and 69).
11. As of claimant's hearing date (10/21/09), his non-exertional mental symptoms were being managed with a combination of counseling and prescription medications ([REDACTED]) (Department Exhibit #1, pgs 19 and 67).
12. Additionally, claimant was taking [REDACTED] for low back pain secondary to alleged congenital spina bifida; however, claimant did not present any back x-rays or any qualified medical professionals' opinions to establish the existence of this impairment, or to establish its severity (Department Exhibit #1, pg 19).
13. While this hearing was pending, the presiding Administrative Law Judge received a computer print-out (SOLQ) which verifies claimant does not have a Social Security disability application or appeal pending, which is fully consistent with his hearing testimony.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 (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).

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

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

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 his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for 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. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, 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 416.929.

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).

...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).

Additionally, Social Security Ruling 96-4p (SSR96-4p) states in relevant part:

A “symptom” is not a “medically determinable physical or mental impairment” and no symptom by itself can establish the existence of such an impairment. In the absence of a showing that there is a “medically determinable physical or mental impairment,” an individual must be found not disabled at Step 2 of the sequential evaluation process. No symptom or combination of symptoms can be the basis for a finding of disability, no matter how genuine the individual’s complaints may appear to be, unless there are medical signs and laboratory findings demonstrating the existence of a medically determinable physical or mental impairment.

In addition, 20 CFR 404.1529 and 416.929 provide that an individual’s symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect the individual’s ability to do basic work activities unless medical signs and laboratory findings show that there is a medically determinable physical or mental impairment(s) that

could reasonably be expected to produce the symptom(s) alleged.

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In addition, 20 CFR 404.1529 and 416.929 provide that an individual’s symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect the individual’s ability to do basic work activities...unless medical signs and laboratory findings show that there is a medically determinable physical or mental impairment(s) that could reasonably be expected to produce the symptom(s) alleged.

...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).

...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).

...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).

[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).

Furthermore, it must be noted the law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's physical or mental symptoms can be managed to the point where substantial gainful employment can be achieved, a finding of "not disabled" must be rendered. Claimant's prescription medications appear to provide adequate symptom control for his diagnosed mental impairments, when taken as prescribed.

In conclusion, claimant does not qualify for the disability-based MA/SDA coverage he seeks because he has not put forth any objective test results or medical opinions to support a finding that he has any physical conditions, standing alone or combined with his diagnosed mental impairments, severe enough to meet the disability standards cited above. Consequently, this Administrative Law Judge finds claimant is fully capable of working in a wide variety of simple, unskilled jobs currently existing in the national economy, which is the standard to be applied in disability determination cases. Therefore, claimant's disputed MA/SDA application must remain denied, as stated in the department's State Hearing Review Team (SHRT) decision dated September 28, 2009 (Department Exhibit #2).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled by MA/SDA eligibility standards.

Accordingly, the department's action is AFFIRMED.

/S/
Marlene B. Magyar
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 4, 2011

Date Mailed: August 4, 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.

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