

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: 2009-3688
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 27, 2009
Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 January 27, 2009.

ISSUE

Was disability medically established?

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 June 9, 2008, the claimant applied for Medicaid/SDA and was denied on October 8, 2008, per PEM 260/261.
- (2) Claimant's vocational factors are: age 34, 11th grade education, and past unskilled/semiskilled work in retail sales.

(3) Claimant's disabling symptoms/complaints are: probably able to perform basic mental work activities as defined below for a month when it becomes difficult to remember; mood swings, bipolar depression, intermittent inability to get along with coworkers, under stress, medications have caused nausea and drowsiness, now on medications and cranky, calls in sick when he isn't sick, frustration, anger, agitated, violent outbursts, and mental condition has progressively worsened since age 7.

(4) Claimant has not performed substantial gainful work since 2003/04.

[Mental Impairment Only]

(5) Medical exam on [REDACTED] states the claimant is limited in sustained concentration/social interaction (Medical Packet, page 204).

(6) Medical exam on [REDACTED] stated the claimant's GAF of 45 and on May 30, 2008 a GAF of 55 (Medical Packet, page 281).

(7) Medical exam on [REDACTED] states the claimant is limited in sustained concentration/social interaction (Medical Packet, page 290).

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).

Findings of Facts above are undisputed:

"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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean 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).

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

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).

Claimant has the burden of proof, to establish by a preponderance of the medical evidence in the record that his mental impairment meets the department's definition of disability for Medicaid/SDA purposes. PEM 260/261.

Step One

Because the claimant was not performing substantial gainful work on date of his Medicaid/SDA application, he meets the Step One eligibility test per 20 CFR 416.920(b). Therefore, the analysis continues to the next step.

Step Two

This step determines whether the claimant, on date of application, had a severe mental impairment as defined above, which had lasted or was expected to last for a continuous period of at least 12 months (90 days for SDA). 20 CFR 416.916(a)(b). A *de minimus* standard is applied in determining severity---Any ambiguities are determined in the claimant's favor.

Claimant's claim that his disabling symptoms/complaints, on date of application, significantly limited him from performing basic work activities as defined above, **alone**, did not establish a severe impairment, as defined above. It must be established by the objective medical evidence in the record. It was not.

The medical evidence stated above does support a severe mental impairment on [REDACTED], but not on [REDACTED]. Therefore, the duration(s) requirements have not been established. Before you can be determined disabled, the severity/duration requirement must be established by the objective medical evidence. 20 CFR 416.920(a). Therefore, Step Two has not been established.

Medicals mentioned above in [REDACTED] and [REDACTED] state the claimant is limited to sustain concentration/social interaction. This is a conclusion without any supporting objective medical evidence as to what degree an order to determine if he has a severe mental impairment, as defined above. Therefore, no evidentiary weight can be given to it per PEM 260.

Medicals mention above on [REDACTED] state a GAF of 45 and on [REDACTED] a GAF of 55. 45 is considered a severe mental impairment and unable to job-function. 55 is considered a non-severe mental impairment and non-difficulty in job functioning.

Step Three

This step determines whether the claimant, on date of application, meets/equals a Social Security listing, and the duration requirement. The medical evidence stated above does not establish a Social Security listing, and the duration requirement. Therefore, Step Three has not been established. However, the analysis will continue to the next step.

Step Four

This step determines whether the claimant, on date of application, was without a residual functional capacity for any of his past work during the last 15 years despite a severe impairment per 20 CFR 416.920(e).

The medical evidence stated above does not establish the claimant's inability to perform any of his past work, as stated above, for the required duration(s). Therefore, Step Four has not been established. However, the analysis will continue to the next step.

Step Five

This step determines whether the claimant, on date of application, was without a residual functional capacity for any other **physical** work per 20 CFR 416.920(f). The claimant is not claiming a physical impairment. Therefore, Step Five does not apply in this case.

Therefore, this Administrative Law Judge is not persuaded that disability has been established by a preponderance of the medical evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides disability was not medically established.

Accordingly, Medicaid/SDA denial is UPHELD.

/s/
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2009

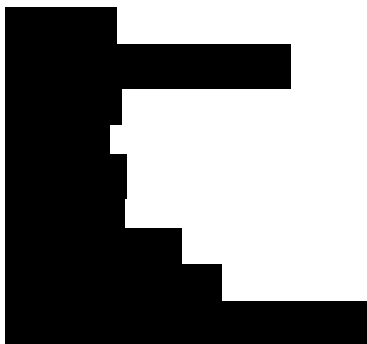
Date Mailed: February 2, 2009

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.

WAS/om

cc:

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