

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: 2009-4076
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2009
Wayne 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, a telephone hearing was held on February 10, 2009. Claimant personally appeared and testified. An interrupter, [REDACTED], also appeared and testified on claimant's behalf.

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 April 29, 2008, claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On July 28, 2008, the Medical Review Team denied claimant's application stating that claimant's impairments lacked duration.

(3) On August 6, 2008, the department caseworker sent claimant notice that his application was denied.

(4) On October 2, 2008, claimant filed a request for a hearing to contest the department's negative action.

(5) On November 19, 2008, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: the claimant was admitted in [REDACTED] due to a myocardial infarction. His ejection fraction was 25 to 35 percent. However, he did receive an AICD which would be expected to improve his ejection fraction. He had a cardiac catheterization which showed two-vessel disease and medical management was recommended. It is expected that after claimant's recovery period he would be able to do light work. The claimant retains the physical residual functional capacity to perform light work. The claimant's past work was light assembly work. Therefore, claimant retains the capacity to perform his past relevant work. MA-P is denied per 20 CFR 416.920(e). Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 due to the capacity to perform past relevant work.

(6) The hearing was held on February 10, 2009. At the hearing, claimant waived the time periods and requested to submit additional medical information.

(7) Additional medical information was submitted and sent to the State Hearing Review Team for further review on February 10, 2009.

(8) On February 19, 2009, the State Hearing Review Team again denied claimant's application stating that it had insufficient evidence and requested to obtain an independent physical consultative exam and treatment records and progress notes from the treating physicians and specialists from June 2008 to most current.

(9) Claimant is a 59-year-old man whose birth date is [REDACTED]. Claimant is 5' 5" tall and weighs 148 pounds. Claimant attended the 8th grade and has no GED. Claimant is able to read and write in Arabic.

(10) Claimant is not currently employed and last worked in 2006 for the [REDACTED] [REDACTED] on the assembly line. Claimant has also worked as machine operator, a dish washer in a restaurant and for [REDACTED] from 1970 to 1980. Claimant lives with his brother who is married and has no children under 18 who live with him.

(11) Claimant alleges as disabling impairments: heart problems.

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 and has not worked since 2006. Claimant is not disqualified from receiving disability at Step 1.

The objective medical evidence on the record indicates that the claimant was admitted [REDACTED] to [REDACTED] due to chest pain. His exam was unremarkable. (Page 105) He underwent a 2D echo which showed an ejection fraction of 25 to 35 percent. Nuclear stress tests revealed a large anterior anterolateral infarct (mild periinfarct ischemia) and mild distal inferior wall ischemia. He underwent cardiac catheterization which revealed two-vessel obstructive coronary artery disease (CAD) to the RCA and LAD. Medical management was recommended given the fact that he was not compliant with his medications. He also had an AICD inserted on [REDACTED]. (Page 119) A DHS-49 form was completed before the claimant was discharged from the hospital. The DHS-49 dated [REDACTED] indicates that claimant was normal in all areas and that he was stable and that he could occasionally lift 20 pounds or less but never pick up 25 pounds or more. Claimant can stand or walk less than two hours in an eight hour day but can sit less than six hours in an eight hour day. Claimant could use his upper extremities for repetitive actions such as simple grasping, reaching, pushing and pulling and fine manipulating and he could operate foot and leg controls with both feet and legs. Claimant was said to have angina and claudication symptoms which limited his physical activity. Claimant had no limitations. (Page 5 and 6) Claimant submitted additional medical information in the form of letters from his doctors. [REDACTED] stated that claimant was a 58 year old gentleman who had been diagnosed with coronary artery disease, congestive heart failure, and chronic renal disease. He was unable to complete simple daily activities without severe limiting chest pain and shortness of breath. As such, he was not physically employable. It was the recommendation of the doctor that he could be considered permanently disabled. [REDACTED]

indicated that claimant had significant coronary artery disease which unfortunately had failed aggressive management. The claimant will require repeat heart catheterization and possibly bypass surgery. Another letter dated [REDACTED] from [REDACTED] states that claimant is unable at this time to complete simple tasks like walking to the bathroom without severe limiting chest pain. He has severe two-vessel coronary disease which despite aggressive medical therapy and coronary stenting has resulted in angina on exertion.

At Step 2, the objective medical evidence on the record indicates that claimant has established that he has a severe impairment or combination of impairments which have lasted or will last the durational requirement of 12 months or more.

At Step 3, claimant's impairments do not rise to the level necessary to be specifically listed as disabling as a matter of law.

At Step 4, this Administrative Law Judge finds that claimant can probably not perform any of his prior work based upon the fact that his medical doctor has stated that he is unable to complete tasks like walking to the bathroom without severe limiting chest pain. Therefore, claimant is not disqualified from receiving disability at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

At Step 5, the burden of proof shifts to the department to establish that claimant does not have residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the

national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

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).

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).

This Administrative Law Judge finds that claimant has submitted sufficient objective medical information which indicates that he could probably perform sedentary work even with his impairments. However, claimant is 59 years old. Claimant is advanced age and does have limited or less education and has worked in unskilled jobs which makes him disabled pursuant to Medical Vocational Rule 201.01. Therefore, this Administrative Law Judge finds that claimant does currently meet the standard for disability. An assessment of claimant's residual functional

capacity in terms of his age, education and work experience direct the decision that he is disabled at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant did not meet the definition for disabled for purposes of Medical Assistance and State Disability Assistance benefits. The Administrative Law Judge finds that claimant meets the definition of medically disabled under the Medical Assistance and State Disability Assistance programs as of the April 29, 2008 application date.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's April 29, 2008 Medical Assistance and State Disability Assistance application and if claimant is otherwise eligible, the department is ordered to open an ongoing Medical Assistance case for the claimant effective April 29, 2008.

The department is also ORDERED to conduct a review of claimant's medical condition in February 2010. At that time, the department shall assist claimant in obtaining all updated medical information, to include a complete physical examination and cardiac assessment.

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

Date Signed: March 19, 2009

Date Mailed: March 20, 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 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.

LYL/vmc

cc:

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