

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: 2009-9755
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 9, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on April 9, 2009. Claimant appeared and testified.

ISSUES

- (1) Did the Department of Human Services properly determine that Claimant is not disabled and deny Claimant's application for Medical Assistance (MA) based on disability?
- (2) Did the Department of Human Services properly determine that Claimant is not disabled and deny Claimant's application for 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) Claimant is a 24 year-old male. Claimant is 72 inches tall and weighs approximately 246 pounds. Claimant's formal education consists of GED completion.

- (2) Claimant reports he has never worked. Claimant was incarcerated from age 18-22.
- (3) Claimant has been diagnosed with arthritis and asserts disability based on joint pain caused by the arthritis.
- (4) On July 11, 2008, Claimant applied for Medical Assistance (MA) based on disability and State Disability Assistance (SDA).
- (5) On September 30, 2008, the Department of Human Services Medical Review Team determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) or State Disability Assistance (SDA).
- (6) On October 10, 2008, Claimant was sent notice of the Department's determination.
- (7) On November 7, 2008, Claimant submitted a request for hearing.
- (8) On January 16, 2009, the Department of Human Services State Hearing Review Team determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) or State Disability Assistance (SDA).

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).

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).

Disability determinations done by the State of Michigan for Medical Assistance (MA) based on disability use the Social Security Administration standards found in United States Code of Federal Regulations (CFR) at Title 20, Part 416. The law defines disability 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 at least 12 months. To meet this definition, you must have severe impairments that make you unable to do your past relevant work or any other substantial gainful work that exists in the national economy.

Disability determinations done by the State of Michigan, for State Disability Assistance (SDA), use the same standards with one minor difference. For State Disability Assistance (SDA) the medically determinable physical or mental impairments that prevent substantial gainful activity must result in death or last at least 90 days.

In accordance with the Federal Regulations an initial disability determination is a sequential evaluation process. The evaluation consists of five steps that are followed in a set order.

STEP 1

At this step a determination is made on whether Claimant's is engaging in substantial gainful activity (20 CFR 416.920(b)). If you are performing activities for pay or profit, we will use 20 CFR 416.971 through 416.975 to evaluate the activities to determine if they are substantial gainful activity. Substantial gainful activity is defined as work activity: that is both substantial and gainful; and involves doing significant physical or mental activities. Gainful work activity is work activity that you do for pay or profit (20 CFR 416.972). If you are engaged in SGA, you are not disabled regardless of how severe your physical or mental impairments are and regardless of your age, education, and work experience.

Claimant testified that he lives with his mother and step-father and spends almost all his time laying in bed or on the couch watching television. Claimant is not engaged in substantial gainful activity.

STEP 2

At the second step it is determined whether you have a severe physical or mental impairment that meets the duration requirement or a combination of impairments that is severe and meets the duration requirement (20CFR 416.920). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform 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.

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).

In addition, to the limiting effect of the impairments they must also meet durational requirements, 90 days for State Disability Assistance (SDA) and 12 months for Medical Assistance (MA) based on disability. If we determine that your impairments are not severe, you are not disabled.

Claimant asserts disability based upon arthritis and pain in his joints. Recent evidence in the record from medical sources includes:

Claimant was examined by [REDACTED], on [REDACTED] (page 47 & 48). [REDACTED] is Claimant's family physician and this examination was the first one in 5 years due to Claimant's incarceration. At the examination Claimant reported he had been beaten up by three men a week prior, that his left eye was injured during that incident, and that it was painful to take a deep breath since the incident. Claimant also reported pain in the right shoulder, both knees, both ankles, and hip due to arthritis. Radiographs of the ribs and chest were done and showed no abnormalities (pages 14 & 15). CT scans of the head were done and showed no abnormalities (pages 16 & 17). [REDACTED] prescribed a course of prednisone for the arthritic pain.

On [REDACTED], [REDACTED] completed a Medical Examination Report (form DHS-49) on Claimant (pages 49 & 50). The form shows that [REDACTED] has seen Claimant since December, 1992 and the date of last examination was April 29, 2008 (reported above). [REDACTED] indicated that Claimant was stable, had one physical limitation, and that the physical limitation

was not expected to last more than 90 days. The single limitation [REDACTED] indicated on the form was that Claimant should stand and/or walk at least 2 hours in an 8-hour work day. [REDACTED] did not list any medical findings to support the minor limitation and did not indicate any mental limitations.

There is also a physical therapy prescription and laboratory referral from [REDACTED], [REDACTED] dated [REDACTED] (pages 1 & 2). [REDACTED] is Claimant's rheumatologist. The physical therapy prescription was for passive therapy and home exercise.

20 CFR 416.929 says that 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(s) which could reasonably be expected to produce the pain or other symptoms alleged. In this case, there is no current medical evidence that any of Claimant's joints are in a physical state that could produce the pain Claimant alleges.

The objective medical evidence in the record does not show that Claimant has any severe physical or mental impairment. The extremely minor physical limitation noted by [REDACTED] was not supported by any medical finding and would not significantly limit Claimant's physical ability to do basic work activities. Therefore, claimant is disqualified from receiving disability at this step. In order to perform a thorough analysis of Claimant's disability allegation the sequential evaluation will continue.

STEP 3

At the third step, it is determined whether an applicant's impairments meet or equal the criteria of an impairment listed in a Social Security Administration impairment listing 20 CFR

Part 404, Subpart P, Appendix 1. If the impairment meets or equals the criteria of a listing and meets the duration requirement, the applicant is disabled.

Claimant's alleged impairments were compared with the Social Security Administration impairment listing 1.02. That listing is:

1.02 Major dysfunction of a joint(s) (due to any cause): Characterized by gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:

A. Involvement of one major peripheral weight-bearing joint (*i.e.*, hip, knee, or ankle), resulting in inability to ambulate effectively, as defined in 1.00B2b;

or

B. Involvement of one major peripheral joint in each upper extremity (*i.e.*, shoulder, elbow, or wrist-hand), resulting in inability to perform fine and gross movements effectively, as defined in 1.00B2c.

Claimant's alleged impairment did not meet or equal this listing because there is no objective medical evidence showing deformity of any joints.

STEP 4

At the fourth step we assess your residual functional capacity (RFC) to determine if you are still able to perform work you have done in the past. Your RFC is your ability to do physical and mental work activities on a sustained basis despite limitations from your impairments. Your RFC is assessed using all the relevant evidence in the record. If you can still do your past relevant work you are not disabled under these standards.

The only limitation presented in the objective medical evidence is that Claimant should stand and/or walk at least 2 hours in an 8-hour workday. Based on the objective medical evidence Claimant has the residual functional capacity to perform any level of work.

Claimant reports no past relevant work so it is not possible to determine if he is able to perform past relevant work.

STEP 5

At the fifth step your residual functional capacity (RFC) is considered along with your age, education, and work experience to see if you can make an adjustment to other work you have not previously done. If you have a combination of sufficient remaining abilities and transferable skills to adjust to other work, you are not disabled. If it is determined that you cannot make an adjustment to other work, we will find that you are disabled.

As determined in Step 4 Claimant has the residual functional capacity to perform any level of work. In accordance with the Social Security Administration Medical-Vocational Guidelines Rule 204.00 Claimant is not disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined that Claimant is not disabled and denied Claimant's application for Medical Assistance (MA) based on disability and State Disability Assistance (SDA).

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 12, 2010

Date Mailed: March 25, 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.

GFH 

cc:

