

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.: 2010-14923
Issue No.: 2009, 4031
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 6, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 May 6, 2010. Claimant appeared and testified. Following the hearing, the record was kept open for the receipt of additional medical evidence. Additional documents were received and reviewed.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is not "disabled" for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) programs?

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 13, 2009, claimant applied for MA-P and SDA benefits.

- 2) On July 27, 2009, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- 3) On September 15, 2009, a hearing request was filed to protest the department's determination.
- 4) Claimant, age 37, has an eighth-grade education. Claimant reported receiving special education services in the eighth grade.
- 5) Claimant last worked in April of 2008 as a security guard. Claimant has also performed relevant work as a porter at a car dealership, a car wash attendant, and as a janitor. Claimant's relevant work history consists exclusively of unskilled work activities.
- 6) Claimant has a history of asthma and left ankle fracture with open reduction and internal fixation.
- 7) Claimant was hospitalized in [REDACTED] for elective implantation of an automatic implanted cardiac defibrillator as a result of dilated cardiomyopathy.
- 8) Claimant was hospitalized in [REDACTED] for asthma exacerbation.
- 9) Claimant currently suffers from congestive heart failure with history of automatic implanted cardiac defibrillator secondary to dilated cardiomyopathy; hypertension; asthma; and history of left ankle open reduction and internal fixation.
- 10) Claimant has severe limitations upon his/her ability to lift heavy amounts of weight. Claimant's limitations have lasted twelve months or more.
- 11) Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as

the record as a whole, reflect an individual who has the physical and mental capacity to engage in his past work activities as a security guard on a regular and continuing basis.

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).

At the hearing, claimant reported that, approximately two weeks prior to the hearing, he received a new ankle brace/boot for his left ankle. He reported that his ankle “feels good with the boot on.” He indicated that he wears the boot all of the time except when he is in bed. Claimant also testified that he has not had any physical problems with his implanted defibrillator. Claimant indicated that his asthma prevents him from being around chemicals or pollen in the air. On [REDACTED], claimant’s treating cardiologist diagnosed claimant with congestive heart failure. The treating cardiologist opined that claimant had a Class B Therapeutic Capacity on the New York Heart Classification. [Patients with a cardiac disease whose ordinary physical activity need not be restricted, but who should be advised against severe or competitive physical efforts.] After review of claimant’s hospital records, medical reports from his treating physicians, and claimant’s own testimony as to his functioning in the home and the community, claimant has failed to establish limitations which would compromise his ability to perform a wide range of

light work activities on a regular and continuing basis. The record fails to support the position that claimant is incapable of light work.

Considering that claimant, at age 37, is a younger individual, has an eighth-grade education, has an unskilled work history, and has a sustained work capacity for light work, this Administrative Law Judge finds that claimant's impairments do not prevent him from engaging in his past work as a security guard or other form of light work. See 20 CFR, Part 404, Subpart P, Appendix 2, Table 2, Rule 202.17. Accordingly, the undersigned must find that claimant is not presently disabled for purposes of the MA program.

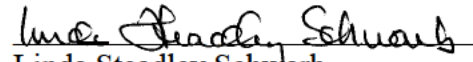
The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in PEM Item 261. In this case, there is insufficient medical evidence to support a finding that claimant is incapacitated or unable to work under SSI disability standards for at least 90 days. Therefore, the undersigned finds that claimant is not presently disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is not “disabled” for purposes of the Medical Assistance and State Disability Assistance programs.

Accordingly, the department’s determination in this matter is hereby affirmed.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 15, 2010

Date Mailed: July 16, 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.

LSS/pf

cc:

