

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010-18972
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: May 20, 2010
DHS County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 20, 2010. Claimant appeared and testified.

ISSUE

Whether the Department of Human Services (DHS or Department) properly determined 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 8, 2008, Claimant was approved for MA-P and SDA.
2. On January 29, 2010, the Medical Review Team denied Claimant's review due to be completed in May 2009.
3. On February 3, 2010, Claimant submitted to the Department a request for hearing.
4. The State Hearing and Review Team (SHRT) denied Claimant's request.
5. Claimant is 48 years old.
6. Claimant completed education through the 8th grade.

7. Claimant has employment experience as a production operator.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from right ankle fusion, hypertension, diabetes, hepatitis C, major depression with psychosis and sleep apnea.
10. Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
11. Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

CONCLUSIONS OF LAW

MA-P 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 administers MA-P 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).

In order to receive MA benefits based upon disability or blindness, the claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability) also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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.

Once an individual has been determined to be "disabled" for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work are assessed. Review may cease and benefits may be continued at any point if there is substantial evidence to find that the individual is unable to engage in SGA. 20 CFR 416.994(b)(5).

The first step to be considered is whether the claimant can perform SGA defined in 20 CFR 416.920(b). In this case, Claimant is not working. Therefore, Claimant is not disqualified at this step in the evaluation.

In this case, Claimant was most recently approved in April 2008. Claimant's testimony indicated the following: he could stand 15 minutes, pain in ankle, elevates leg, wears specialized shoe, can sit for 20 minutes, uses cane to walk, can walk 1 block with cane, can lift 10 lbs, headaches all the time, can't sleep, needs help with washing clothes and shopping, not able to manage household chores, not able to drive, ongoing suicidal thoughts, attempted suicide 2 months ago but a friend stopped him from shooting self, hears voices, wants to hurt self and others, struggles to be around people, sees visions of shadows and the medications have lessened but not stopped the symptoms.


A consulting examiner found Claimant to be significantly limited in all categories of the mental residual functional assessment. This same physician indicated that Claimant had a GAF of 47 and his depression and psychosis could cause problems in doing simple tasks.

The second step the trier of fact must determine is whether the Claimant's impairment (or combination of impairments) meets or equals the severity of an impairment listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant's medical record does support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. Specifically, Claimant's condition meets listing 12.04 A and B. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, Claimant is still medically disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant continues to be medically disabled.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to maintain Claimant's eligibility for MA-P and SDA if otherwise eligible for program benefits. A review of this case shall be set for January 2012


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 24, 2011

Date Mailed: January 24, 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 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.

JWO/pf

cc:

