

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

IN THE MATTER OF THE CLAIM OF:



Reg. No.: 2010 20987
Issue No.: 2009, 4031
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: May 13, 2010
Wayne County DHS (18)

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 the claimant's request for a hearing. After due notice, a telephone hearing was held on May 13, 2010. Claimant appeared and testified.

ISSUE

Was the Department of Human Services' (DHS or Department) denial of Claimant's application for the Medical Assistance (MA-P) and State Disability Assistance (SDA) programs for lack of disability correct?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. Claimant applied for MA-P and SDA on November 6, 2009.
2. Claimant is 34 years old.
3. Claimant has an 11th grade education and a General Education Diploma.
4. Claimant returned to work as a carpenter on May 3, 2010.

5. Claimant is currently working.
6. Claimant has a prior work history consisting of work as a carpenter.
7. Claimant has a history of mental illness with records dating back to [REDACTED].
8. A Mental RFC Assessment was completed by Claimant's treating source on [REDACTED].
9. Claimant was rated "Markedly Limited" in several categories, including his ability to maintain attention and concentration for extended periods, the ability to perform activities within a schedule, maintain regular attendance and be punctual within customary tolerances, and the ability to interact appropriately with supervisor, co-workers, and peers.
10. Claimant was admitted into [REDACTED] on [REDACTED]. Claimant exhibited auditory and visual hallucinations and suicidal ideation. Claimant was diagnosed with schizoaffective disorder with a GAF of 20 at admittance and a guarded prognosis.
11. An independent Department examiner completed a psychological evaluation on [REDACTED].
12. Claimant was diagnosed with schizoaffective disorder. Claimant appeared unable to take care of his basic needs of food, clothing and shelter on a consistent basis. Claimant exhibited some psychomotor retardation. Claimant's stream of mental activity was somewhat illogical, but goal-directed. Claimant was unable to multiply single digits.
13. Claimant retains the ability to understand, retain and follow simple instructions, and able to function in tasks that are repetitive and concrete. Claimant appeared to be able to function in a setting where there is limited interaction with supervisors, coworkers and the public.
14. Claimant received a GAF of 30 with a guarded prognosis.
15. On December 30, 2009, the Medical Review Team denied MA-P and SDA.
16. On February 16, 2010, claimant filed a request for hearing.
17. On March 3, 2010, the State Hearing Review Team denied MA-P, retro MA-P and SDA.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The 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 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).

Federal regulations require that the Department use the same operative definition of the term "disabled" as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

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.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

The first step that must be considered is whether the claimant is still partaking in Substantial Gainful Activity (SGA). 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability. The Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2010 is \$1,640. For non-blind individuals, the monthly SGA amount for 2010 is \$1,000.

In the current case, Claimant has testified that he is currently working. Claimant testified at his hearing that he returned to work as a carpenter on May 3, 2010, 10 days

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before his hearing. Claimant confirmed that he retains that employment on June 18, 2010, working 37 hours per week at a wage of \$18 per hour. Therefore, Claimant is engaging in SGA and, thus, does not pass the first step of the sequential evaluation process. The undersigned notes that 20 CFR 404.1592 provides for a "Trial Work Period;" however, this option is not available to a claimant until after the claimant has been found disabled. *Barnhart v. Walton*, 535 U.S. 212 (2002); *Salamalekis v. Commissioner*, 221 F.3d 828 (6th Cir. 2000).

As Claimant is engaging in SGA and, therefore, does not pass step 1 of the 5-step process, Claimant must be considered not disabled.


With regard to steps 2, 3, 4, and 5, when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920. Therefore, the Administrative Law Judge sees no reason to continue his analysis, as a determination can be made at step 1.

With regard to the SDA program, a person is considered disabled for the purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Other specific financial and non-financial eligibility criteria are found in PEM 261. As Claimant does not meet the federal standards for SSI disability, as addressed above, the undersigned concludes that Claimant is not disabled for the purposes of the SDA program as well.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision denying Medical Assistance, retro Medical Assistance and State Disability Assistance is hereby affirmed.


Jonathan W. Owens
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: June 29, 2010

Date Mailed: June 29, 2010

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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.

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