

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

IN THE MATTER OF:



Reg. No: 201031938
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 19, 2010
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 May 19, 2010. The record was left open to allow claimant to submit additional medical documentation for consideration.

ISSUE

Did the department properly determine that Claimant did not meet the disability standard for Medical Assistance based on disability (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 January 22, 2010, Claimant applied for MA-P and SDA benefits.
2. On April 13, the Medical Review Team (MRT) denied Claimant's request for MA-P and SDA benefits.
3. On April 19, the department notified Claimant that he was denied MA-P and SDA benefits.
4. On April 21, the department received Claimant's hearing request, protesting the denial of MA-P and SDA benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P and SDA benefits.

6. Claimant applied for disability benefits based on having a history of neck and back pain (Department Exhibit #1, pg 27).
7. According to a physical examination report dated March 23, 2010: Claimant complained of neck and lumbar problems, headaches, and right shoulder surgery; Claimant was 5'6" and weighed 140 lbs; he had fine and gross dexterity intact with full sensory; his right shoulder range of motion was unremarkable without significant pain; neck range of motion was near normal, and the remainder of the spine appeared unremarkable with few pain behaviors; sensory and motor were full in the lower extremities; straight leg raising was negative for potential radicular symptoms; and the rest of the examination did not reveal any significant abnormalities (Department Exhibit #1, pgs 6-11).
8. On March 23, 2010, the medical doctor who completed a physical examination of Claimant concluded that Claimant was not totally disabled and should be able to do light to moderate work (Department Exhibit #1, pg 7).
9. According to medical examination report dated March 27, 2010, the physical examination revealed the following: there was no obvious bony deformities; there was no edema in any of the extremities; range of motion of all joints was full with the exception of the lumbar spine in flexion; Claimant had full digital dexterity and grip. Claimant was able to ambulate without any difficulty; there was some paravertebral muscle spasms palpable during the examination of range of motion; Claimant's strength was 5/5 in all extremities, and he had a negative straight leg raise test and no clonus; Claimant was able to perform heel and toe walking with the examiner's assistance for balance; and Claimant did have an initial resting tremor during examination which went away throughout the examination (Department Exhibit #1, pgs 13-16).
10. Claimant's MRI of the cervical spine done on May 13, 2010, revealed the following: a small central and left paracentral disc herniation at the C6-C7 level; mild spondylitic changes at the C5-C6 level without focal herniation or central canal stenosis; and straightening of the normal lordotic curvature, which can be seen with muscle spasm or patient positioning. (Claimant Exhibit A)
11. Claimant's CT of the cervical spine done on July 1, 2010, revealed kyphotic curve from C5 down to C7 with narrowing of the intervertebral discs these levels; and moderate stenosis of the central canal at C6-C7 from bulging of the intervertebral disc with the neural foramina also mildly stressed. (Claimant Exhibit B, p.1)

12. Claimant's CT of the L-Spine with Contrast done on July 1, 2010, revealed, no compression fracture or epondylolisthesis; and mild bulging of the intervertebral discs is identified, mainly at L4-L5, and to a lesser degree at L3-L4 and L5-S1. (Claimant Exhibit B p. 2)
13. According to a letter from claimant's medical doctor dated August 3, 2010, Claimant has a seizure disorder.
14. Claimant is a 40 year-old male with a limited educational background and unskilled work experience as a cook, and he has done other unskilled work.
15. Claimant has not engaged in substantial gainful activity at any time relevant to this matter.
16. Claimant was denied Supplemental Security Income (SSI) by the Social Security Administration; however, he had an SSI appeal pending at the time of the hearing.

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).

Current legislative amendments to the Act delineate eligibility criteria as implemented by agency policy set forth in program manuals.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18

years of age or emancipated minors meeting one or more of the following requirements:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

“Disability” is:

...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

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).

Since claimant was not engaged in substantial gainful activity at any time relevant to this matter, the analysis continues:

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

...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).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood,

thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

...Evidence that you submit or that we obtain 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 your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

Claimant applied for disability benefits based on having a history of neck and back pain. In addition, he submitted a letter from the doctor which states that he has a seizure disorder. Claimant provided the necessary objective medical evidence which includes medical examination reports and laboratory data to establish that he has a combination

of physical problems that would significantly affect his ability to work and meet the MA-P and SDA duration standard. Therefore the analysis continues.

Claimant failed to establish that he has a severe impairment which meets or equals a listed impairment found at 20 CFR, Part 404, Subpart P, Appendix 1. Therefore, the analysis continues.

Claimant's physical limitations could possibly compromise his ability to do his past relevant work. Therefore, the analysis will continue to determine Claimant's residual functional capacity or what he is able to do despite limitations. 20 CFR 416.945 and 20 CFR 416.961.

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 should be able to do at least sedentary and light work if he avoids unprotected heights and operating moving machinery due to his alleged seizure disorder. Claimant's MRI of the cervical spine, done on May 13, 2010, revealed the following: a small central and left paracentral disc herniation at the C6-C7 level; mild spondylitic changes at the C5-C6 level without focal herniation or central canal stenosis; and straightening of the normal lordotic curvature. According to a physical examination report dated March 23, 2010: Claimant complained of neck and lumbar problems, headaches, and right shoulder surgery; Claimant was 5'6" and weighed 140 lbs; he had fine and gross dexterity intact with full sensory; his right shoulder range of motion was unremarkable without significant pain; neck range of motion was near normal, and the remainder of the spine appeared unremarkable with few pain behaviors; sensory and motor were full in the lower extremities; straight leg raising was negative for potential radicular symptoms; and the rest of the examination did not reveal any significant abnormalities. The medical doctor who completed the physical examination of Claimant on March 23 concluded that Claimant should be able to do light to moderate work. According to medical examination report dated March 27, 2010, the physical examination revealed the following: there was no obvious bony

deformities; there was no edema in any of the extremities; range of motion of all joints was full with the exception of the lumbar spine in flexion; Claimant had full digital dexterity and grip; Claimant was able to ambulate without any difficulty; there were some paravertebral muscle spasms palpable during the examination of range of motion; and Claimant's strength was 5/5 in all extremities, and he had a negative straight leg raise test and no clonus. A CT of the Claimant's lumbar spine done on July 1, 2010 revealed no compression fracture or spondylolisthesis; and there was only mild bulging of the intervertebral discs identified, mainly at L4-L5, and to a lesser degree L3-L4 and L5-S1.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969.

Claimant is a young individual with a limited educational background and unskilled work experience. 20 CFR 416.963, 20 CFR 416.964, and 20 CFR 416.968. Using Medical Vocational Rule 201.24 and 202.17 as guidelines, claimant would be considered not disabled. According to these Medical Vocational Rules, a young individual, age 40, with a limited educational background, literate and able to communicate in English, with unskilled work experience, limited to sedentary and light work, respectively, is not disabled.

In conclusion, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the department's MA-P and SDA decision is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined that Claimant did not meet the MA-P and SDA disability standard.

Accordingly, the department's MA-P and SDA decision is AFFIRMED.

/S/
Marya A. Nelson-Davis
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 17, 2011

Date Mailed: February 17, 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 receipt 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.

MAND/db

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