

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: 2010-34646
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 June 15, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) and State Disability Assistance (SDA) eligibility standards?

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 50-year-old nicotine dependent male with a general equivalency diploma (GED) and an unskilled work history who applied for a disability-based monthly cash grant (SDA) and medical coverage (MA) in February 2010 (Department Exhibit #1, pgs. 7 and 14).

(2) When the department denied claimant's applications he filed a timely hearing request to protest these denials.

(3) Claimant's hearing was held on June 15, 2010.

(4) Claimant stands 5' 7" tall and is of normal weight at 139 pounds (BMI=21.8); he is right hand dominant, per self report.

(5) Claimant lives by himself in a studio apartment; additionally, he is fully independent in all self cares and basic daily living activities except driving because he lost his license several years ago secondary to an alcohol-related conviction (DUIL).

(6) Without a driver's license claimant relies on public buses, his bicycle or walking to fulfill his transportation needs (e.g., shopping, doctors' appointments, visiting, etc.).

(7) As of claimant's hearing date (four months after his disputed MA/SDA application was filed), claimant reported he occasionally works as a part-time dish washer at a local restaurant when the regular employees won't come in.

(8) On January 27, 2010, claimant was admitted to [REDACTED] through their emergency room for three days (1/27/10-1/29/10)(Department Exhibit #1, pgs. 25 and 26).

(9) At admission, claimant was experiencing alcohol withdrawal symptoms including nausea, vomiting, dehydration, diarrhea, mild abdominal discomfort and tremulousness (Department Exhibit #1, pg. 25).

(10) At discharge, claimant's shakiness was still evident but it improved significantly with [REDACTED] and he was no longer exhibiting any withdrawal symptoms or other physical ailments (i.e., no fever, no diarrhea, stable vital signs, no blood in stool and no evidence of GI bleed (Department Exhibit #1, pgs. 25 and 26).

(11) Claimant appeared for his mandatory MA/SDA application interview on February 17, 2010 smelling of alcohol, seeming confused and walking slowly with a walker (Department Exhibit #1, pg. 8).

(12) Claimant admitted on the record at hearing he was actively engaged in alcohol abuse when he filed his disputed MA/SDA applications in February 2010, and also, he admitted he has continued consuming approximately ½ pint daily since then, except in the month of March 2010 when he was residing in a men's shelter where onsite consumption was not allowed.

(13) Claimant stated at hearing he has poor balance, he cannot think straight, he is constantly fatigued and generally weak, and he still gets shaky.

(14) Claimant's treating doctor has continued to prescribe [REDACTED] since hospital discharge; additionally, claimant's other prescription medications include a muscle relaxant and pain medication for subjectively reported leg/back pain, a high blood pressure regulator and an antidepressant.

(15) The medical records submitted to date are devoid of objective test results establishing the presence of any existing back/leg impairments which would give rise to the level of pain claimant reports (e.g., x-rays, MRIs, CT scans, etc.).

(16) Shortly after claimant was discharged from the hospital, specifically on February 9, 2010, his family practice doctor completed a Medical Examination Report (DHS-49) which verifies claimant's condition was improving and his recuperative phase was not expected to last more than 90 days (Department Exhibit #1, pg. 10).

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).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, 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

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or his medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An

individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

...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.... 20 CFR 416.929(a).

...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).

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

The evidence presented establishes no severe physical or mental impairments existing in claimant's case. In fact, the record overwhelmingly supports a finding claimant's only impairments at application filing (and now) are directly related to his ongoing alcoholism.

In 1997, PL 104-121 went into effect, eliminating eligibility for monthly disability benefits to those applicants whose primary impairment is substance abuse/dependency when that substance abuse/dependency is a material contributing factor to the applicant's ability to engage in substantial gainful work activity.

“Material to the determination” means that, if the applicant stopped using drugs or alcohol, his remaining limitations would not be disabling. Without objective medical evidence to the contrary, this Administrative Law Judge must find claimant’s continued alcohol consumption is the major contributing factor to most (if not all) of the symptoms he describes including confusion, depression, poor balance and generalized weakness. Furthermore, claimant’s current prescription medications appear fully capable of adequate symptom management for his undocumented physical conditions, as long as medication compliance is maintained. Consequently, this Administrative Law Judge finds claimant’s inability to look for work and/or to remain employed is the result of ongoing alcohol abuse. Therefore, claimant is not eligible for MA/SDA and his disputed applications must remain denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant is not disabled by MA/SDA eligibility standards.

Accordingly, the department’s denial action is AFFIRMED.

/s/
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 23, 2010

Date Mailed: August 23, 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 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.

MBM/cv

cc:

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