

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.: 2010-5  
Issue No.: 2009  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
December 10, 2009  
Tuscola County DHS

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 December 10, 2009. Claimant appeared and testified.

ISSUE

Whether the department properly determined the Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

FINDINGS OF FACT

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

1. On March 16, 2009, the Claimant representative applied for MA-P and retroactive MA-P.
2. On May 20, 2009, the Medical Review Team (MRT) denied the Claimant's request.

3. On August 14, 2009, the Claimant submitted to the Department a request for hearing.
4. The State Hearing and Review Team (SHRT) denied the request.
5. The Claimant is 48 years old.
6. The Claimant completed education through 8<sup>th</sup> grade.
7. The Claimant has employment experience as a machine operator and roofer.
8. The Claimant's limitations have lasted for 12 months or more.
9. The Claimant suffers from stroke, asthma, carpal tunnel left hand, stenosis, diabetes, and sleep apnea.
10. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

#### CONCLUSIONS OF LAW

The Medical Assistance (MA-P) 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-P 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).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P 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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence 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 the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

In this case, this Administrative Law Judge finds the Claimant may be considered presently disabled at the third step. The Claimant appears to meet listing 1.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment.

The Claimant's testimony and the medical documentation support the finding that the Claimant meets the requirements of a listing.

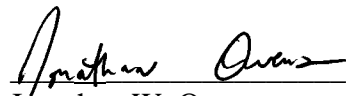
Specifically, the testimony indicated the following: pain in lower right side of back and right leg, routinely quits breathing at night when he sleeps, problems sleeping, gets at most 2-3 hours a night, stomach pain, can't walk any distance without pain, can't sit straight up in a chair at all, can't bend over, can't lift over 5 lbs, left hand has weakness, numbness in left hand, does his own chores on a limited basis, handles own care, numbness in right leg and hip at times, can't stand more than 4-5 minutes, needs help with paperwork, unable to complete a job application, some memory and speech problems, chest pain, takes nitro 3-4 times a week, shortness of breath, full hearing loss in left ear, needs a C-pap machine, tired and fatigued all the time

Therefore the Claimant is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is medically disabled as of February 2009.

Accordingly, the Department decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated March 16, 2009, if not done previously, to determine the Claimant's non-medical eligibility. The Department shall inform the Claimant of the determination in writing. A review of this case shall be set for January of 2011.

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

Date Signed: March 23, 2010

2010-5/JWO

Date Mailed: March 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 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:

