

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201051951

Issue No: 2009



Hearing Date: October 21, 2010
Crawford County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 October 21, 2010.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) application?

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 July 26, 2010, claimant applied for MA with the Michigan Department of Human Services (DHS).
2. Claimant did not apply for retro MA.
3. On August 13, 2010, the MRT denied.
4. On August 18, 2010, the DHS issued notice.
5. On August 31, 2010, claimant filed a hearing request.
6. As of the date of the administrative hearing, claimant testified that he has an SSI application pending with the Social Security Administration (SSA).
7. On September 14, 2010, the State Hearing Review Team (SHRT) denied claimant. Pursuant to the claimant's request to hold the record open for the submission of new and additional medical documentation, on February 15, 2011 SHRT once again denied claimant.

8. As of the date of application, claimant was a 43-year-old male standing 6' tall and weighing 200 pounds. Claimant has a high school diploma.
9. Claimant testified that he did not as of the date of the administrative hearing have an alcohol/drug abuse problem. Claimant is an alcoholic. Claimant has a significant history of alcoholism—25 years.
10. Claimant is/is not currently working. Claimant testified he last worked in 2007 when he had an accident falling off a scaffold. Claimant's work history is carpentry work.
11. Claimant alleges disability on the basis of alcoholism, cataracts, hypertension, back problems, seizures secondary to alcoholism.
12. The September 15, 2010 SHRT findings and conclusions of its decision are adopted and incorporated by reference to the following extent:

Hospitalized 7/10 due to alcohol withdrawal seizures. Developed delirium tremors while hospitalized which improved with medical treatment. Blood pressure is uncontrolled with no organ damage. Gait was stable with no neurological deficits. Muscle strength or upper and lower extremities is normal. Vision examination 4/10 was within normal limits.
13. The subsequent February 15, 2011 SHRT decision is adopted and incorporated to the following extent:

Claimant was scheduled for cataract extraction on 10/06/10 and 10/20/10. On 10/06/10 underwent cataract surgery of right eye. 10/19/10 vision was 20/40—to right and 20/200 left. Doctor wanted to wait another month at least before he did the cataract surgery on the other eye. Analysis: admitted 7/10 due to acute alcohol intoxication with delirium tremors and seizures. Condition improved with treatment. Cataracts were noted to be significantly impairing his vision but in 10/10 had the right cataract extracted. Vision in the right eye improved to be within normal limits. He was to have cataract surgery in the left eye about one month later. Denied.
14. Claimant's medical file is replete with diagnoses of chronic alcoholism, delirium tremors secondary to alcoholism, alcoholism for 25 year history, usually drinks approximately $\frac{3}{4}$ of a fifth daily on the average; hospitalizations without memory of prior incidents due to blackouts.

15. Claimant has also been diagnosed with HTN, gastroacid reflux, not statutorily disabling.
16. Claimant has been hospitalized for detoxification.
17. There insufficient medical documentation to indicate statutorily disabling back problem.
18. Exhibit 92 seems to indicate that claimant was denied SSA.

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).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, 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. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Prior to any substantive review, jurisdiction is paramount. It appears from the case herein that claimant has received a final determination from SSA. Under the federal regulations and corresponding law found at 42 CFR 435.541, there is no jurisdiction.

However, due to some testimony on the record, this Administrative Law Judge will rule ambiguities in claimant's favor and continue the analysis.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...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).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...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 sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...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).

...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).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...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).

It is noted that Congress removed obesity from the Listing of Impairments shortly after the removal of drug addition and alcoholism. This removal reflects the view that there is a strong behavioral component to obesity. Thus, obesity in-and-of itself is not sufficient to show statutory disability.

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). There is insufficient medical evidence to indicate a severe impairment with regards to claimant's cataracts. At one time they may have been a problem; however new medical obtained from DDS indicates claimant has had surgery. Thus, this matter should be resolved. In fact, the most recent evaluation on claimant's one eye shows significant improvement and no severe impairment. At the same time this second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant cannot return to past relevant work on the basis of the medical evidence. The analysis continues.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge finds that claimant does not meet statutory disability on the basis of Medical Vocational Grid Rule 203.29 as a guide.

In reaching this conclusion, it is noted that with regards to claimant's gastro reflux, back problems, high blood pressure, the medical evidence does not indicate a statutorily disabling impairment or group of impairments pursuant to the requirements under 20 CFR 416.913(b), (d), and (e).

With regards to claimant's alcoholism, claimant's medical file is replete with chronic alcohol issues and problems so significantly that the medical evidence indicates that claimant is primarily alleging disability on the basis of chronic alcoholism. However, Congress removed alcoholism as a drug addiction from eligibility for statutory disability 20 CFR 416.214; 416.935-.941. Thus, where there is alcoholism there is no statutory eligibility for disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is UPHELD.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 24, 2011

Date Mailed: August 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 mailing date of the rehearing decision.

JGS/db

cc:

