

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: 2010-10341  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
January 26, 2010  
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 January 26, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (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 August 25, 2009, claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On October 2, 2009, the Medical Review Team denied claimant's application stating that claimant could perform other work.

(3) On October 8, 2009, the department caseworker sent claimant notice that his application was denied.

(4) On October 20, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) On December 16, 2009, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: claimant is capable of performing other work in the form of light work per 20 CFR 416.967(b) pursuant to Medical Vocational Rule 202.20.

(6) Claimant is a 35-year-old man whose birth date is [REDACTED]. Claimant is 6'1" tall and weighs 265 pounds. Claimant is a high school graduate. Claimant is able to read and write and does have basic math skills.

(7) Claimant last worked 2006 for a [REDACTED]. Claimant has also worked as a pres operator, machine operator, a pizza delivery person, and has also worked odd jobs for his uncle at a cement company.

(8) Claimant alleges as disabling impairments: hypertension and chest pain.

#### CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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

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 is 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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...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).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

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

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

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

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).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

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).

At Step 1, claimant is not engaged in substantial gainful activity and has not worked since 2006. Claimant is not disqualified from receiving disability at Step 1.

The objective medical evidence on the record indicates that claimant has uncontrolled hypertension and in August 5, 2009 he was admitted and was found to have a hypertensive emergency with a blood pressure of 220/150. He came to the ER because of hematospermia and hematuria. He received a gun shot wound to the arm in 2000 and claimant was not compliant with hypertensive medicine, due to the inability to purchase medication because of lack of funds on that date. On his physical examination, he was well developed and well nourished, his blood pressure was uncontrolled. He had no obvious jugular venous distention. His chest was grossly clear. His cardiac had muffled heart tones and no obvious murmurs. The abdomen was soft and he had no edema. On August 6, 2009, he had a large pericardio effusion with dyspnea and perhaps early evidence of tamponade. (pp 64-66) On August 3, 2009, claimant had an arterial line placement because of his hypertension emergency. He tolerated the procedure well. The chest x-ray showed no pneumothorax and the chest tube was in good position. (p70) The Gall Bladder was normal. Both kidneys were unremarkable without hydronephrosis or perinephric stranding. There is a normal contrast appearance of liver, spleen, pancreas, and adrenal glands. He had no stones seen along the course of the ureters and the bladder. He had a few subcentimeter lymph nodes in the left paraaortic space and near the root

of the mesentery. No abnormality seen in the bowel. Appendix visualized was normal. No free fluid in the pelvis. Seminal vesicles and prostate area were unremarkable. Visualized bones were normal. Visualized lung bases demonstrated large pericardial effusion with atelectasis in the lung bases. (p73) On August 8, 2009, the interpretation of claimant's status post cardiac surgery was the mediastinal tube was unchanged. There was a stable cardiomegaly without pulmonary vascular congestion, though interstitial and ground glass alveolar edema persists. There is nothing to indicate a pneumothorax, however the lateral view indicates a persistent small amount of air within the mediastinum anteriorly. Minimal pleural fluid is suggested. There was evidence of pulmonary edema. (p83) An echo cardiogram performed August 4, 2009, indicates that he had marked concentric left ventricular hypertrophy with a generalized hypokinesia, and an ejection fraction of 30% with no significant valvular disease, enlarged pericardial effusion but no tamponade. (p23) August 12, 2009, claimant was moderately developed, nourished, and alert to relative time, person, and place. His blood pressure was 201/123 and his pulse rate was 105. His HEENT: the head had no traumatic lesion. Conjunctivae were not pale, sclerae are not icteric, pupils were isocoric and light reflex normal. In the neck there was no neck vein engorgement. Carotid pulses were equal bilaterally. No bruit audible. The lungs had no rales or wheezing audible. The heart: systolic murmur, grade 2 audible at the apex and along left sternal border. In the abdomen, the liver and spleen were not palpable. Extremities: there was no pedal edema. In the neurologic area there was focal point deficit noted. Claimant's blood pressure gradually went down and became under control, he felt much better so he was discharged once he received subxiphoid pericardial window and a large pericardial effusion was removed. (pp 7-8)

At Step 2, claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months.

Claimant testified on the record that he receives Food Assistance Program benefits and is single with no children under 18 living with him and he lives with his mother in a house. Claimant testified that does have a drivers license but doesn't drive and his sister and father take him where he needs to go. Claimant testified that he cooks 1-2 times per week and he cooks things like hamburger and chicken. He grocery shops 2 times per month and he does not need help for grocery shopping. Claimant testified that he does vacuum, does dishes, cleans his bathroom. Claimant testified that he has no limits on his ability to sit, stand, or walk and that he can squat, bend at the waist, shower and dress himself, tie his shoes and touch his toes. Claimant testified that his level of pain on a scale of 1-10 without medication is a 7 and with medication is a 2-3. Claimant testified that he is right handed and has nothing wrong with his hands and arms except that he was shot in 1999, but he can use the arm but he has a numb feeling. Claimant testified that his legs and feet are fine and the heaviest weight he can carry is 40-50 pounds and he can carry 20 pounds repetitively. Claimant testified that he can do any kind of job and there is nothing that he can't do and on a typical day he gets up, reads the paper, and sits around. Claimant testified that he does look for a job. Claimant also testified that he does not have any mental impairment.

There is insufficient objective clinical medical evidence in the record that claimant suffers a severely restrictive physical or mental impairment that has lasted or will last the duration of the requirement of 12 months or more. Claimant did have a sever impairment on the day that he was admitted to the hospital, but he was released within 10 days. His condition was

controlled with medication. When claimant entered the hospital and had not been compliant with his medication for hypertension. This Administrative Law Judge finds that there are no laboratory or x-ray findings which indicate that claimant has a severe impairment or combination of impairments which have lasted or will last the durational requirement of 12 months or more or have kept him from working at any job for 12 months or more. There is no clinical impression. There is no medical finding that claimant has any muscle atrophy or trauma, abnormality or injury that is consistent with a deteriorating condition. In short, claimant has not established that he is disabled and is not restricted from tasks associated with occupational functioning. Claimant did testify that he does have some pain which is a 7 without medication but with medication is a 2-3. Reported symptoms are an insufficient basis upon which a finding that claimant has met the evidentiary burden of proof can be made. This Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restrictive physical impairment. For these reasons, this Administrative Law Judge finds that claimant failed to meet his burden of proof at step 2. Claimant must be denied benefits at this step based upon his failure to meet the evidentiary burden.

If claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of claimant's condition does not give rise to a finding that he would meet a statutory listing in the code of federal regulations.

If claimant had not already been denied at Step 2, this Administrative Law Judge would have to deny him again at Step 4 based upon his ability to perform his past relevant work. Claimants past relevant work was light work as a pizza delivery person, or as a person working for a lawn company or a press operator, these positions do require strenuous physical exertion and there is no evidence upon which this Administrative Law Judge could base a finding that

claimant is unable to perform work in which he has engaged in, in the past. In addition, it appears that as long as claimant is complying with his medication, he basically has no limitations. Therefore, if claimant had not already been denied at Step 2, he would be denied again at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

At Step 5, the burden of proof shifts to the department to establish that claimant does not have residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

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).

There is insufficient objective medical/psychiatric evidence contained in the file that claimant suffers from a mental or a physical impairment that is so severe that it would prevent claimant from working at any job. Claimant was able to answer all the questions at the hearing and was responsive to the questions. Claimant was oriented to time, person and place during the hearing. Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to claimant's ability to perform work. Claimant did testify that he does receive relief from his pain medication.

Claimant has submitted insufficient objective medical evidence that he lacks the residual functional capacity to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do light or sedentary tasks if demanded of him. Claimant's activities of daily living do not appear to be very limited and he should be able to perform light or sedentary work even with his impairments. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he cannot perform light or sedentary work even with his impairments. Under the Medical-Vocational guidelines, a younger individual (age 35), with a high school education and an unskilled work history who is limited to light work is not considered disabled.

The department's BRIDGES Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to

receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits. The claimant should be able to perform a wide range of light or sedentary work even with his impairments. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED.

/s/  
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Landis Y. Lain  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: April 26, 2010

Date Mailed: April 27, 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.

2010-10341/LYL

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.

LYL/alc

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