

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.: 2010-25139
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 7, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 April 7, 2010. Claimant appeared and testified. Claimant was represented by [REDACTED].

ISSUE

Did the Department of Human Services (DHS or department) properly determine that 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 material fact:

- 1) On September 10, 2009, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to August of 2009.

- 2) On December 8, 2009, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
- 3) On March 2, 2010, a hearing request was filed to protest the department's determination.
- 4) Claimant, age 51, has a tenth-grade education.
- 5) Claimant last worked in December of 2008 as a machine operator. Claimant was laid off from this employment. Claimant has performed other relevant work including light work as a facility monitor.
- 6) Claimant was hospitalized [REDACTED]. His primary diagnosis at discharge was acute coronary syndrome related to coronary artery disease. Secondary diagnoses included hepatitis C, gastroesophageal reflux disease, chronic bronchitis, and alcohol abuse. Claimant underwent heart catheterization and coronary artery bypass grafting x 4.
- 7) Claimant was re-hospitalized [REDACTED]. His final diagnosis was unstable angina, atherosclerosis, coronary occlusive disease status post recent coronary artery bypass graft surgery, hyperlipidemia, and hypertension. Claimant underwent heart catheterization which demonstrated occlusion of his bypass graft. He underwent angioplasty and stenting.
- 8) Claimant has had no further hospitalizations.
- 9) Claimant currently suffers from coronary artery disease status post coronary artery graft bypass x 4 and subsequent heart catheterization, angioplasty, and stenting; hypertension; and hyperlipidemia.

- 10) Claimant is capable of meeting the physical and mental demands associated with his past employment as well as other forms of light work on a regular and continuing basis.
- 11) Claimant has received Unemployment Compensation benefits from [REDACTED]. Claimant acknowledged that, in receiving Unemployment Benefits, he certified that he was “able to, available for, and actively seeking full-time work.”

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).

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“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

In general, claimant has the responsibility to prove that he is disabled. Claimant’s impairment must result from anatomical, physiological, or psychological abnormalities which

can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, at the time of the hearing, claimant was not working. Accordingly, claimant may not be disqualified for MA at this step in the sequential evaluation process.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Basic work activities means 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).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

In this case, claimant has presented the required medical data and evidence necessary to support a finding that he has significant physical limitations upon his ability to perform basic work activities such as lifting extremely heavy objects. Medical evidence has clearly established that claimant has an impairment (or combination of impairments) that has more than a minimal effect on claimant’s work activities. See Social Security Rulings 85-28, 88-13, and 82-63.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant’s impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the claimant’s medical record will not support a finding that claimant’s impairment(s) is a “listed impairment”

or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing past relevant work. 20 CFR 416.920(e). It is the finding of this Administrative Law Judge, based upon the medical evidence and objective, physical findings, that claimant is capable of his past work. Claimant was hospitalized in [REDACTED] for acute coronary syndrome related to coronary artery disease. He underwent coronary artery bypass grafting x 4. He was re-hospitalized in [REDACTED] [REDACTED] where heart catheterization revealed occlusion of his bypass graft and underwent angioplasty and stenting. Claimant has had no further hospitalizations. On [REDACTED], claimant's treating cardiologist saw claimant following discharge from the [REDACTED] admission. The cardiologist wrote as follows:

“... since this procedure was completed he is doing great. He denies any angina, denies cough, shortness of breath, palpitations, or syncope ... We will see him in 6 months.”

Claimant was evaluated by a consulting internist for the [REDACTED] on [REDACTED]. The consultant provided the following diagnosis and impression:

1. Hypertension. It is well controlled with the present regime. Clinically, there is no evidence of cardiomegaly or cardiac failure. Fundi are normal as far as could be visualized through undilated pupil.
2. Status post coronary artery bypass surgery, angioplasty and insertion of stent. Patient is asymptomatic at this time.
3. Alleged history of chronic bronchitis. Clinically, there is no evidence of chronic obstructive pulmonary disease, emphysema or Cor-pulmonale. Patient is not breathless on normal physical exertion.

4. Alleged history of hepatitis C. Clinically, however, there is no evidence of hepatitis or hepatic failure.
5. Alleged history of enlargement of prostate gland. Patient refused rectal examination.
6. Possible osteoarthritis of the lumbar spine, possible osteoarthritis of the right knee joint and right great toe. He has functional limitations from it.

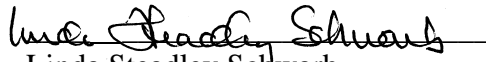
The consultant provided the following medical source statement:

“Based on the history, physical examination today and reviewing of the accompanying medical records, in my opinion, this patient is suitable for work for 8 hours a day but should avoid prolonged standing, climbing stairs, heavy physical exertion, lifting heavy weight, climbing ladders and scaffolding because of history of coronary artery disease and pain in the knee joint and great toe.”

At the hearing, claimant reported that he is currently involved in the Michigan Works Program, concentrating on job search. Claimant testified that he believes he is capable of full-time work. He hopes to take college classes in order to retrain himself. Claimant acknowledged at the hearing that he has been receiving Unemployment Compensation benefits. Claimant further acknowledged that, in receiving Unemployment Compensation benefits, claimant was certifying that he was “able to, available for, and actively seeking full-time work.” After careful review of the entire hearing record, the undersigned finds that claimant is capable of past work activities as well as other forms of light work on a regular and continuing basis. Accordingly, the department’s determination in this matter is hereby affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is not “disabled” for purposes of the Medical Assistance program. Accordingly, the department’s determination in this matter is hereby affirmed.


Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 13, 2010

Date Mailed: April 14, 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.

LSS/pf

cc:

