

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-25195

Issue No: 2009; 4031

[REDACTED]

[REDACTED]

Crawford 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 [REDACTED]. Claimant personally appeared and testified.

This hearing was originally held by Administrative Law Judge [REDACTED]. Judge [REDACTED] is no longer affiliated with the Michigan Administrative Hearing System Administrative Hearings for the Department of Human Services and this hearing decision was completed by Administrative Law Judge [REDACTED] by considering the entire record.

**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 December 11, 2009, claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On January 5, 2010, the Medical Review Team denied claimant's application stating that claimant's impairments were non-severe.
- (3) On January 7, 2010, the department caseworker sent claimant notice that his application was denied.
- (4) On March 2, 2010, claimant filed a request for a hearing to contest the department's negative action.

- (5) On March 18, 2010, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: that claimant was relating good progress of symptoms until they came in at one point relating that they were concerned with being laid off at which point symptoms escalated. The claimant continues to bike, although states that has reduced the amount of time that they spend riding. Claimant has no reduction of household activities. The claimant's impairments do not meet/equal the intent or severity of a Social Security Listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of light exertional work which does not involve carry loads greater than 12" from her body. There are no psychiatric limitations. Therefore, based on the claimant's vocational profile of 52 years old at least a high school education and history of medium semi-skilled employment MA-P is denied using Vocational Rule 202.14 as a guide. Retro MA-P was considered in this case and is also denied. SDA is denied per PEM261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days. Listings 1.02, 1.04, and 11.14 were considered in this determination.
- (6) The hearing was held on April 13, 2010. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) Additional medical information was submitted and sent to the State Hearing Review Team on April 13, 2010.
- (8) On April 16, 2010, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: the Michigan Administrative Hearing System returned this case as there was evidence for the local Department of Human Service offices which had not been incorporated with the previous file. The new evidence does not materially alter the previous findings of the medical review team, January 5, 2010, nor the March 18, 2010 State hearing Review Team determinations. The claimant's impairments do not meet/equal the intent or severity of a Social Security Listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of light exertional work which does not involve carry loads greater than 12" from her body. There are no psychiatric limitations. Therefore, based on the claimant's vocational profile of 52 years old at least a high school education and history of medium semi-skilled employment MA-P is denied using Vocational Rule 202.14 as a guide. Retro MA-P was considered in this case and is also denied. SDA is denied per PEM261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days. Listings 1.02, 1.04, and 11.14 were considered in this determination.

- (9) On the date of hearing, claimant was a [REDACTED] whose birth date is [REDACTED]. Claimant was 5' 7" tall and weighs 170 pounds. Claimant completed the 12<sup>th</sup> grade and had 1 year of college and was able to read and write and does have basic math skills.
- (10) Claimant last worked in 2009 as a Machine Operator. Claimant has worked as a janitor, laborer, construction, and as a short order cook.
- (11) Claimant alleges as disabling impairments: herniated disc in his back, pain in his leg, and multi-level degenerative disc disease.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 2009. Claimant is not disqualified from receiving disability at Step 1.

The subjective and objective medical evidence on the record indicates that claimant testified on the record that he lives alone and he has a suspended driver's license. Claimant is able to cook and grocery shop and do housekeeping duties. Claimant testified the he has pain in his legs and is sleepy from his medication and he doesn't get out much. He has some problems with daily chores, but is able to do them. Claimant testified he has some discomfort in his back and a numb leg and pain. Claimant testified that he can walk a ½ mile or less, stand for 20 minutes, sit for 20 minutes and he is not sure of the heaviest weight he can carry. Claimant testified that his legs get numb and his back hurts. Claimant is right handed and he does smoke 5-6 cigarettes per day and he does drink alcohol 2 times per week and he usually 1-2 beers but he does not take any drugs besides medication. A Radiology report of the lumbar spine indicates that claimant has pain and the findings that there is moderate narrowing at all levels from T12-L1 and thru L5-S1. Moderate spondylosis is seen along the anterior margins. No acute fracture or focal destructive process is seen at this time. There facet arthropathy at L5-S1 (Page A4). A September 4, 2009, medical examination report indicates that claimant's temperature was 98.6, his blood pressure was 110/82 his pulse was 87, respiratory rate 20, pulse symmetry room oxygen was 96% and he was afebrile. He was alert and in no acute distress. His head was normocephalic and nontraumatic. Conjunctiva were clear. Sclerae anicteric. TM's were gray with normal light reflex bilaterally. Nasal mucosa was pink and moist. Pharynx was pink and moist. No oral lesions. The neck was supple without adenopathy. No nuchal rigidity. Cardiovascular heart is regular rate and rhythm without murmur, rub or gallop. Lungs were clear to auscultation with good respiratory effort and normal excursion. No wheezes, rales or

rhonchi. The bowel sounds were present times 4 in the quadrants of the abdomen. No bruits. Soft nontender to palpation without rebound, guarding or rigidity. No masses. No organomegaly. Normal color to LE. The patient was alert and oriented in no acute distress. Lower back pain left paraspinal (Page A3). A January 26, 2010, admission indicates that on clinical examination resting room air pulse oximetry 98%, respiratory rate 18, pulse rate 66 per minute, blood pressure 124/80, weight 71.4 kilograms, height 171.4 cm. Claimant did not appear in apparent distress. Bilateral tympanic membranes were normal. Pupils were reactive to light equally. Pallor icterus absent. Throat was erythematous. The neck is supple. Lymphadenopathy and thyroid gland enlargement absent. Carotid bruits not heard. Jugular venous pressure not raised. Heart sounds are regular rhythm with no added sounds, no murmurs. Lungs were clear to auscultation bilaterally extremities are warm, edema absent. Neurologically oriented to time, place and person. No specific focal findings were noted (Page A8).

At Step 2, claimant has the burden of proof of establishing that she has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical medical evidence in the record that claimant suffers a severely restrictive physical or mental impairment. Claimant has reports of pain in multiple areas of his body; however, there are no corresponding clinical findings that support the reports of symptoms and limitations made by the claimant. There are no laboratory or x-ray findings listed in the file. The clinical impression is that claimant is stable. 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 restricted himself from tasks associated with occupational functioning based upon his reports of pain (symptoms) rather than medical findings. 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.

Claimant alleges the following disabling mental impairments: depression

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).

There is insufficient objective medical/psychiatric evidence in the record indicating claimant suffers severe mental limitations. There is no mental residual functional capacity assessment in the record. There is insufficient evidence contained in the file of depression or a cognitive dysfunction that is so severe that it would prevent claimant from working at any job. Claimant was oriented to time, person and place during the hearing. Claimant was able to answer all of the questions at the hearing and was responsive to the questions. The evidentiary record is insufficient to find that claimant

suffers a severely restrictive mental impairment. For these reasons, this Administrative Law Judge finds that claimant has 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. 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. 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).

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 has failed to provide the necessary objective medical evidence to establish that he has a severe impairment or combination of impairments which prevent him from performing any level of work for a period of 12 months. The claimant's testimony as to his limitations indicates that he should be able to perform light or sedentary work.

There is insufficient objective medical/psychiatric evidence contained in the file of depression or a cognitive dysfunction 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. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant has no residual functional capacity. 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 person who is closely approaching advanced age with a high school education and a semi-skilled work history who is limited to light work is not considered disabled pursuant to Medical Vocational Rule 202.13.

If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial activity without good cause there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

The department's 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

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was not eligible to receive Medical Assistance and/or State Disability Assistance.

**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/\_\_\_\_\_  
Landis Y. Lain  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 5/23/11

Date Mailed: 5/23/11

**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.

LYL/ds

