

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20103452
Issue No: 4031
Case No: [REDACTED]
Hearing Date: May 27, 2010
St Clair County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 May 27, 2010. The record was held open to allow Claimant the opportunity to submit new medical documentation.

ISSUE

Did the Department properly determine that Claimant did not meet the disability standard for State Disability Assistance (SDA) benefits?

FINDINGS OF FACT

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

1. Claimant was an SDA recipient due to being a [REDACTED] participant.
2. On or about February 3, 2010, the Department was informed that Claimant was no longer active with [REDACTED] effective June 4, 2009.
3. After receiving notice that Claimant was no longer an [REDACTED] participant, the Department tried to determine whether Claimant met the disability standard for SDA benefits by obtaining Claimant's medical documentation and forwarding it to the Medical Review Team (MRT).
4. On March 10, the Medical Review Team determined that Claimant did not meet the SDA disability standard (Department Exhibit #1, pg 4)

5. On March 24, the Department notified Claimant that he was denied SDA benefits.
6. On April 5, the Department received Claimant's hearing request, protesting the denial of SDA benefits.
7. The State Hearing Review Team (SHRT) upheld the denial of SDA benefits.
8. Claimant complains of pain in low back with a history of pinched nerve and disc problems. (Department Exhibit #1, pg 42)
9. Claimant's EMG and Nerve Conduction report dated March 8, 2010, revealed mild peripheral sensory neuropathy at left lower extremity. (Department Exhibit #1, pgs 19-22)
10. Claimant's orthopedic and neurologic report dated July 14, 2008, revealed that the examination of his upper and lower extremities was normal; his gait was normal; his straight leg raising was normal; Claimant had minimal difficulty doing orthopedic maneuvers; his range of motion of extremities was well preserved; he was not using an assistive device for ambulation; and there were no other significant abnormalities regarding Claimant's residual functional capacity noted. (Department Exhibit #1, pgs 30-34)
11. The MRI of the lumbar spine dated January 23, 2008 revealed an L3-4 small disc protrusion; L4-5 mild right foraminal stenosis, and L5-S1 left subarticular and foraminal disc osteophyte complex abutting both the exiting L5 nerve and descending S1 nerve root. (Department Exhibit #1, pgs 22 and 28)
12. Claimant is a 55-year-old male with a GED and unskilled work experience.
13. Claimant's past relevant work includes doing light work as an assembly line operator in May 2007; medium work, packaging, from April to May 2007; and he worked as an assembly line operator, doing light work in May 2007. (Department Exhibit #1, pg 22-25).
14. Claimant was not engaged in substantial gainful activity at any time relevant to this matter.

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 Program

Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A person can qualify for SDA benefits if he has been determined eligible for Michigan Rehabilitation Services (MRS) and has a signed active individual plan for employment (IPE) with MRS. In addition, there are "Other" benefits listed in BEM item 261 that a person can receive in order to qualify for SDA.

When the person does not meet one of the criteria under Other Benefits or Services or Special Living Arrangements, obtain medical evidence of the disability and submit it to the Disability Examiner (DE) for a determination. The DE will review the medical evidence and either certify or deny the disability claim based on the medical evidence. BEM Item 261.

Current legislative amendments to the Act delineate eligibility criteria as implemented by agency policy set forth in program manuals.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

"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.

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 416.909(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. 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).

Since Claimant was not engaged in substantial gainful activity at any time relevant to this matter, the analysis continues.

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).

...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).

...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).

...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).

..Evidence that you submit or that we obtain 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 your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

In this case, Claimant was given ample opportunity to submit additional medical documentation to establish a severe impairment to establish that he meet the SDA disability standard. However, Claimant failed to submit any additional medical documentation. Further, the objective medical documentation on the record fails to establish that Claimant had a severe impairment that met the 90-day duration standard at any time relevant to this matter. Claimant has a history of back problems and Hepatitis C. Claimant's most recent most recent medical documentation, an EMG and Nerve Conduction report dated March 8, 2010, revealed only **mild** peripheral sensory neuropathy at left lower extremity, but no other significant abnormalities.

If the analysis continued, Claimant would be considered not disabled. Claimant failed to establish that he has a severe impairment which meets or equals a listed impairment found at 20 CFR, Part 404, Subpart P, Appendix 1.

If the analysis continued to step 4, Claimant would be considered not disabled. Claimant testified that he was in prison for approximately 19 years, and he has an unskilled work history. There is no objective medical evidence that Claimant would be unable to his past relevant unskilled light work based on the objective medical evidence on the record.

Claimant's orthopedic and neurologic report dated July 14, 2008, revealed that the examination of his upper and lower extremities was normal; his gait was normal; his straight leg raising was normal; Claimant had minimal difficulty doing orthopedic maneuvers; his range of motion of extremities was well preserved; he was not using an assistive device for ambulation; and there were no other significant abnormalities regarding Claimant's residual functional capacity noted. The MRI of the lumbar spine dated January 23, 2008 revealed a L3-4 small disc protrusion; L4-5 mild right foraminal stenosis, and L5-S1 left subarticular and foraminal disc osteophyte complex abutting both the exiting L5 nerve and descending S1 nerve root.

In conclusion, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the department's SDA decision is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant did not meet the SDA disability standard.

Accordingly, the department's SDA decision is AFFIRMED.

/s/ _____
Marya A. Nelson-Davis
Administrative Law Judge Manager
Michigan Administrative Hearing System
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 1, 2011

Date Mailed: June 1, 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.

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