

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-47338
Issue No: 2009
Case No: [REDACTED]
Hearing Date: June 29, 2011
Crawford County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, an in-person hearing was held on June 29, 2011. The claimant appeared and testified.

Claimant's requested continuance of the hearing to obtain additional medical reports was denied based on lack of good cause per Michigan Administrative Rule 400.915.

ISSUE

Was disability medically established?

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 is currently unemployed.
- (2) In June 2009, the claimant was laid off from his last job and became a recipient of unemployment compensation benefits (UCB) on August 23, 2009, expecting exhaustion in August 2011.
- (3) Claimant's vocational factors are: age 53, 12th grade education, and past work experience in sedentary and light welding work (Medical Packet, page 63).

- (4) On November 9, 2009, the claimant applied for Medicaid, was denied on March 1, 2010 per BEM 260, and requested a hearing on May 28, 2010.
- (5) Claimant alleges disability due to pneumonia, respiratory failure, hypertension, acute renal failure, and diabetes with prognosis unknown (Medical Packet, page 60).
- (6) From November 3, 2009 to November 25, 2009, and November 25, 2009 to December 8 2009, the claimant was an inpatient for generalized deconditioning, community acquired pneumonia, acute renal failure, hypertension and diabetes which was resolved upon discharge in December 2009; and that throughout the hospital stay, claimant continued to make steady improvements (Medical Packet, pages 69 to 79).
- (7) SHRT report dated December 1, 2010 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 81).

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).

The facts above are undisputed:

"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 as a guideline 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, the evidence establishes that the claimant is not currently engaged in substantial gainful activity and has not worked since June 2009. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record does not establish that the claimant is significantly limited in performing basic physical work activities as defined below based on the *de minimus* standard for the required duration stated below.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...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).

...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).

Therefore, disability is denied at this step.

If the claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the objective medical evidence does not establish that claimant's impairments meet/equal Social Security Listing for the required duration.

If the claimant had not already been denied at Step 2, this ALJ would have to deny him again at Step 4 because the objective medical evidence does not establish that claimant's inability to do any of his past work for the required duration.

This ALJ will continue to proceed through the sequential evaluation process to determine whether or not the claimant has the residual functional capacity (RFC) to perform some other less strenuous types of work in the national economy.

If the claimant had not already been denied disability at Steps 2 and 4, this ALJ would deny him, again, at Step 5 because the objective medical evidence of record does not establish that the claimant is without a residual functional capacity for other work in the national economy.

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very 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).

Claimant has submitted insufficient objective medical evidence that he lacks the residual functional capacity (RFC) to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do sedentary-type work if demanded of him. 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.

In addition, the claimant receives UCB. In order to receive UCB under the federal regulations, a person must be monetarily eligible. They must be totally or partially unemployed. They must have an approval job separation. Also, they must meet certain legal requirements which include being physically able to work, being available for and seeking work, and filing a weekly claim for benefits on a timely basis. This ALJ finds that claimant has not established that he 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 for a period of 12 months or more. Claimant's last work was in June 2009. Claimant does receive UCB and expects to exhaust them in August 2011.

Therefore, this ALJ finds that the objective medical evidence on the record does not establish that the claimant has no RFC. Claimant is disqualified from receiving disability at Step 5 based on the fact that he has not established by objective medical evidence that he cannot perform sedentary work even with his impairments. Under the Medical Vocational guidelines, a person closely approaching advanced age of 53, with a high school education and a semi-skilled work history who is limited to sedentary work is not considered disabled.

Therefore, the claimant has not established disability, as defined above, by the necessary competent, material and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that disability was not medically established.

Accordingly, Medicaid denial is UPHELD.

William A Sundquist

William Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 18, 2011

Date Mailed: July 18, 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 receipt 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.

WAS/tg

cc:

