

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-49144
Issue No: 2009, 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: 9/16/10
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 9/16/10.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) application?

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 2/12/10 claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant applied for three months of retro MA.
- (3) On 6/11/10 the MRT denied.
- (4) On 6/15/10 the DHS issued notice.
- (5) On 7/6/10 claimant filed a hearing request.

- (6) Claimant has an SSI application pending with the Social Security Administration (SSA). Claimant testified that she has applied for SSI with SSA on 3 different occasions. Claimant is currently waiting for an administrative hearing before an Administrative Law Judge.
- (7) On 8/24/10 the State Hearing Review Team (SHRT) denied claimant.
- (8) As of the date of application, claimant was a 52-year-old female standing 5'1" tall and weighing 155 pounds. Claimant has a 10th grade education.
- (9) Claimant smokes approximately 10-15 cigarettes per day. Claimant has a nicotine addiction. Claimant denies having an alcohol/drug problem indicating she had not had a history since 1994. Contrary medical evidence indicates a current and ongoing alcohol use not recognize as problem by claimant pursuant to exhibits 5 through 8 and 12 through 14.
- (10) Claimant does not have a driver's license due to having DUIs. Claimant's most recent DUI was in 1999.
- (11) Claimant is not currently working. Claimant's work history is light, unskilled employment.
- (12) Claimant alleges disability on the basis of a head and back injury, hypertension, stomach pain, adjustment disorder, and as indicated by other professionals alcohol abuse.
- (13) The 6/11/10 MRT decision is adopted and incorporated by reference herein.
- (14) The 8/24/10 SHRT Findings and Conclusions of the decision are adopted and incorporated by reference to the following extent:

...the claimant is noted for mild adjustment disorder and history of chronic alcohol abuse. Claimant has a remote history of polysubstance abuse. There is evidence that the claimant does have a mild degenerative changes of cervical and lumbar spine, most like secondary to reported robbery; no evidence of organic brain disorder.

Analysis: Evidence supports that it is reasonable that claimant would be limited to performing light exertional work. There is no evidence to support a severe psychiatric condition.

Recommendation: Claimant retains the physical residual functional capacity to perform light exertional work. There are no psychiatric limitations. Deny per 20 CFR 416.920(a).

- (15) Claimant testified at the administrative hearing that she does need any assistance with daily activities including meal preparation, dusting, dishes, and laundry. Claimant does not need any assistance with her bathroom and grooming needs.
- (16) Claimant testified at the administrative hearing that she could do a desk job full time if she could find one.

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 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).

Statutory authority for the SDA program states in part:

- (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.

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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. Sections 200.00-204.00(f)?

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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...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).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...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).

...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).

...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).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...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).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities

in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant can return to past relevant work on the basis of the medical evidence. It is noted that SHRT denied claimant on this basis. Specifically, this ALJ concurs with the finding of SHRT as well as the discussion in the psychological consult evaluation indicating that claimant does not have a severe mental impairment. Claimant does have some issues but not to the point to which they are severely limiting with regards to ability to work. With regards to claimant's medical problems, the evidence does not rise to statutory disability on the basis of indicating that claimant is unable to engage in past relevant work. Both the psychological and medical impairments do not show the same.

It is noted in the alternative that this step should be analyzed, this Administrative Law Judge would concur with MRT and finding no disability on the basis of medical vocational grid 202.17 as a guide. 20 CFR 416.920(g)

It is also noted that in support of the conclusions by this Administrative Law Judge that claimant's testimony specifically indicates that she is not impaired with regards to activities of daily living. Claimant engages in routine household chores, and does not need any assistance with bathroom and grooming needs. Statutory disability is not shown per 20 CFR 416.913(b), .913(d) and .913(e). See also BEM Items 260 and 261.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is upheld.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

2010-49144/JS

Date Signed: 10/26/10

Date Mailed: 10/26/10

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.

JS/le

cc:

