

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: 2010-5223
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 16, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 December 16, 2009.

ISSUE

Was the denial of claimant's application for MA-P and SDA for lack of disability correct?

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 applied for MA-P, Retro MA-P, and SDA on February 2, 2009.
- (2) Claimant is 51 years old.
- (3) Claimant has a 10th grade education.
- (4) Claimant is not currently working.

- (5) Claimant has a prior work history consisting of a toll collector, home health aide, factory assembly work and retail.
- (6) Claimant performed these jobs at a light and medium exertional level.
- (7) Claimant has also been diagnosed with a cerebral aneurysm, measuring 7mm and located at the left middle trifurcation of the cerebral artery.
- (8) Claimant has developed some epileptic episodes and some neurological disorders, including severe headaches and agoraphobia.
- (9) A medical report of [REDACTED] indicated that the aneurysm was the cause of the headaches.
- (10) Claimant is under medical orders to refrain from any stressful activity for fear of bursting the aneurysm.
- (11) Claimant's functional capacity is extremely limited, and only retains the capacity to lift less than 10 lbs occasional, is not to lift any weight heavier than 10 lbs, should not stand or walk more than 2 hours in an 8 hour day, and retains no capacity for pushing and pulling.
- (12) On June 9, 2009, the Medical Review Team denied MA-P, Retro MA-P and SDA, stating that claimant was capable of performing other work, as per grid rule 202.10.
- (13) The rule cited meant that MRT decided that claimant retained functional capacity for light work.
- (14) On July 31, 2009, claimant filed for hearing.
- (15) On November 6, 2009, the State Hearing Review Team denied MA-P, Retro MA-P and SDA, stating that claimant retained the capacity to perform a wide range of light semi-skilled work.

(16) On December 6, 2009, a hearing was held before the Administrative Law Judge.

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).

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 of the term “disabled” as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

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

This is determined by a five step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five

step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps are necessary. 20 CFR 416.920

The first step that must be considered is whether the claimant is still partaking in Substantial Gainful Activity (SGA). 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2009 is \$1,640. For non-blind individuals, the monthly SGA amount for 2009 is \$980.

In the current case, claimant has testified that she is not working, and the Department has presented no evidence or allegations that claimant is engaging in SGA. Therefore, the Administrative Law Judge finds that the claimant is not engaging in SGA, and thus passes the first step of the sequential evaluation process.

The second step that must be considered is whether or not the claimant has a severe impairment. A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual's physical or mental ability to perform basic work activities. The term "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. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, claimant has presented more than sufficient evidence of a cerebral aneurysm that has more than a minimal effect on the claimant’s ability to do basic work activities. Claimant’s treating source and hospital records state that claimant has restrictions in her functional capacities to do physical activities, including lifting, walking, and standing. Furthermore, claimant credibly testified that her treating source has told her to refrain from all stressful activities for fear of bursting the aneurysm. Claimant thus easily passes step two of our evaluation.

In the third step of the sequential evaluation, we must determine if the claimant’s impairments are listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.925. This is, generally speaking, an objective standard; either claimant’s impairment is listed in this appendix, or it is not. However, at this step, a ruling against the claimant does not direct a finding

of “not disabled”; if the claimant’s impairment does not meet or equal a listing found in Appendix 1, the sequential evaluation process must continue on to step four.

The Administrative Law Judge finds that the claimant’s medical records contain medical evidence of an impairment that meets or equals a listed impairment.

The great weight of the evidence of record finds that claimant’s mental impairment meets or equal the listings for mental impairments contained in section 4.00 (Cardiovascular Impairments).

Appendix 1 of Subpart P of 20 CFR 404, Section 4.00 has this to say about Cardiovascular disorders:

*4.00H6 When does an aneurysm have “dissection not controlled by prescribed treatment,” as required under 4.10? An aneurysm (or bulge in the aorta or one of its major branches) is *dissecting* when the inner lining of the artery begins to separate from the arterial wall. We consider the dissection not controlled when you have persistence of chest pain due to progression of the dissection, an increase in the size of the aneurysm, or compression of one or more branches of the aorta supplying the heart, kidneys, brain, or other organs. An aneurysm with dissection can cause heart failure, renal (kidney) failure, or neurological complications.*

4.10 Aneurysm of aorta or major branches, due to any cause (e.g., atherosclerosis, cystic medial necrosis, Marfan syndrome, trauma), demonstrated by appropriate medically acceptable imaging, with dissection not controlled by prescribed treatment (see 4.00H6).

In order to meet or equal the listings for an aneurysm, a claimant must have an aneurysm in a major aortic branch that is dissecting. Dissection can cause neurological complications when pressing upon the brain. After viewing the evidence of record, including treating source opinions, the undersigned believes that the evidence shows claimant has an aneurysm consistent with dissection. Claimant has had some neurological problems, including epilepsy and severe

headaches, which would be consistent with dissection. The hospital reports of August 28, 2008, indicate as much.

As claimant meets the criteria of 4.10, the Administrative Law Judge holds that claimant meets or equals the listings contained in section 4.00, and therefore, passes step 3 of our 5 step process. By meeting or equaling the listing in question, claimant must be considered disabled. 20 CFR 416.925.

With regard to steps 4 and 5, when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps are necessary. 20 CFR 416.920. Therefore, the Administrative Law Judge sees no reason to continue his analysis, as a determination can be made at step 3.

With regard to the SDA program, a person is considered disabled for the purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Other specific financial and non-financial eligibility criteria are found in PEM 261. As claimant meets the federal standards for SSI disability, as addressed above, the undersigned concludes that the claimant is disabled for the purposes of the SDA program as well.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is disabled for the purposes of the MA and SDA program. Therefore, the decisions to deny claimant's application for MA-P, Retro MA-P and SDA were incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to process claimant's MA-P, Retro MA-P and SDA application and award required benefits, retroactive to the date of application, provided claimant meets all non-medical standards as well. The Department is further ORDERED to initiate a review of claimant's disability case in March, 2011.



Robert Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 02/26/10

Date Mailed: 03/01/10

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 receipt date of the rehearing decision.

RJC/dj

cc:

