

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

IN THE MATTER OF:



Reg. No: 201111127
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: April 12, 2011
Oakland 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, a telephone hearing was held on April 12, 2011. The claimant appeared and testified.

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 a material fact:

- (1) Claimant is currently unemployed.
- (2) On June 16, 2006, the Claimant was laid off from his last job; he drew Unemployment Compensation Benefits (UCB) which was exhausted in August 2007; he last work thereafter until the first part of 2008.
- (3) On March 25, 2010, the Claimant applied for Medicaid/SDA and was denied on September 24, 2010, per BEM 260/261, and requested a hearing on October 8, 2010.
- (4) Claimants vocational factors are: age 50, 7th grade education, and semi-skilled machine operator building car doors weighing over 50 pounds for General Motors Corporation, unskilled warehouse worker moving furniture

and appliances, semi-skilled factory work making up small kits of parts for the car industry weighing 10 pounds, and semi-skilled worker making airplane seat upholstery weighing 20 to 30 pounds (Medical Packet, Page 13).

- (5) Claimants disabling complaints are: back, leg and foot pain (Medical Packet, Page 12 and 19).
- (6) Claimant claims that his disabling complaints limit him from performing basic work activities and past employment as follows: limited to walking one block with few minutes rest in between, standing 10 minutes at a time with few minutes rest in between, sitting one to two hours with changes in position every thirty minutes, lifting/carrying 20 pounds occasionally, and not limited to pushing/pulling or reaching activities.
- (7) Medical exam on [REDACTED], regarding low back pain, states the claimant had an L-5/S MRI with recommendation to have surgery due to persistent R leg numbness due to radiculopathy; that he has no history of swelling of feet and ankles on-and-off, arthritis and joint pain of the knees, nor swelling or weakness; that neurological x-ray was grossly normal; that gait was normal with no ambulatory aid usage; that his lumbar and thoracic spine was with pain; that R sacroiliac joint was tender on palpitation (Medical Packet, pages 3 to 5).
- (8) SHRT report dated February 14, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 19).

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 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 established that the Claimant is not currently engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record establishes that the claimant is significantly limited in performing basic work activities, as defined below, based on the *de minimus* standard, and 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.

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean 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).

At Step 3, the objective medical evidence does not establish that the claimant's impairments meet/equal a Social Security listing.

At Step 4, the objective medical evidence does not establish the claimant's inability to do any of his past work, despite his severe impairment. Especially his semi-skilled factory work making up small kits of parts for the car industry weighing 10 pounds falls within his medical limitations. Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish that the claimant is without a Residual Functional Capacity (RFC) 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's disabling complaints above that he has no RFC for any work is not supported by the objective medical evidence of record. His medical limitations fall within the definition of sedentary work as defined above. Therefore, the claimant would be able to perform, at least, sedentary work. At this level, considering the claimant's vocational profile (closely approaching advanced age, 50, 7th grade education, and past semi-skilled work experience) he is not considered disabled under Vocational Rule 201.11. Therefore, disability is denied at Steps 4 and 5.

The Department's Program Eligibility Manual contains the following policy statements and instructions for case workers regarding the state's Disability Assistance Program: To receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, 261, Page 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.

Therefore, the Claimant has not established disability, as defined above, by the necessary competent, medical, 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, MA/SDA denial is UPHELD.

/s/

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

Date Signed: May 18, 2011

Date Mailed: May 19, 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/ar

cc:

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