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

IN THE MATTER OF:
[redacted]

Reg. No: 201113028
Issue No: 2009
Case No: [redacted]
Load No:
Hearing Date:
May 5, 2011
Wayne 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 May 5, 2011.

ISSUE

Was the denial of claimant's application for MA-P 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 and retroactive MA-P on May 17, 2010.

(2) Claimant is 49 years old.

(3) Claimant is not currently working.

(4) Claimant has a history of heart disease.

(5) On [redacted], claimant was treated at [redacted] with catheterization. It was noted that claimant had 100% blockage in the left main coronary artery.

(6) Claimant's treating source has stated that he needs "total care with all ADL's".

(7) On August 2, 2010, the Medical Review Team denied MA-P and retroactive MA-P, stating that claimant refused medical care.

(8) On November 12, 2010, claimant filed for hearing.

(9) On February 8, 2011, the State Hearing Review Team denied MA-P, and retroactive MA-P, stating that claimant retained the capacity to perform a wide range of light work, per 20 CFR 416.967(b) and Vocational Rule 202.13. SHRT also cited materiality of drug and alcohol issues.

(10) On May 5, 2011, a hearing was held before the Administrative Law Judge.

(11) Claimant was represented by [redacted].

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 2010 is $1,640. For non-blind individuals, the monthly SGA amount for 2010 is $1,000.

In the current case, claimant has testified that he 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 heart condition that has more than a minimal effect on the claimant's ability to do basic

work activities. Claimant has functional limitations resulting from his heart condition. Claimant's treating source has stated that claimant is severely limited with regards to physical activities. Claimant requires "total care with all ADL's". These symptoms limit claimant's aptitude for walking, carrying, and lifting. 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 heart condition meets or equal the listings for mental impairments contained in section 4.00 (Cardiovascular System).

Appendix 1 of Subpart P of 20 CFR 404, Section 4.00 has this to say about chronic heart failure:

> ***4.04C Ischemic heart disease*****,** with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following…
>
> **C.** Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC,

> preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:
>
> 1. Angiographic evidence showing:
>
>   a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or
>
>   b. 70 percent or more narrowing of another nonbypassed coronary artery; or
>
>   c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or
>
>   d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or
>
>   e. 70 percent or more narrowing of a bypass graft vessel; and
>
> 2. Resulting in very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living.

In order to meet or equal the listings for ischemic heart disease, a claimant can meet or equal the listings of the C criteria. A careful examination of claimant's medical records, supplied from a treating source and claimant's testimony at the hearing, show claimant meets the C criteria.

On [redacted], claimant was treated in [redacted] with a catheterization. This medically accepted test showed 100% occlusion of the left main coronary artery. This finding meets or equals listing part 1C. Furthermore, the medical records show that claimant's treating source did not perform an exercise test on the claimant; claimant's condition was such that he was unable to perform an exercise test. This is supported by claimant's treating source opinion, which states that claimant needs "total care with all ADL's". Claimant credibly testified that he is unable to perform

any ADL's in the home, and needs assistance to walk even short distances. Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner,* 486 F. 3d 234 (6th Cir. 2007)*; Bowen v Commissioner,* 473 F. 3d 742 (6th Cir. 2007); restated (again) in *Hensley v. Commissioner,* No. 08-6389 (6th Cir. July 21, 2009). The undersigned finds no reason to discount the treating source opinion. Furthermore, the undersigned feels that this is sufficient to meet the second part of the listing in question, which requires "very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living."

As claimant meets both the C criteria, 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.

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 program. Therefore, the decision to deny claimant's application for MA-P was incorrect.

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

The Department is ORDERED to process claimant's MA-P application and award required benefits, provided claimant meets all non-medical standards as well. The Department is further ORDERED to initiate a review of claimant's disability case in June 2012.

Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 05/31/11

Date Mailed: 06/02/11

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: [redacted]