

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-14169
Issue No. 2009
Case No. [REDACTED]
Hearing Date: April 21, 2011
Kent 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 21, 2011.

Medical reports (Exhibit A) submitted by fax after the hearing for a second SHRT review delayed the D&O below.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P)?

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. In February 2009, the claimant was laid off from his last job and became a recipient in March 2010 of unemployment compensation benefits until exhausted in June 2011.
3. Claimant's vocational factors are: age 48, GED with two years of college, a past unskilled truck driving and skilled forklift driver with no lifting/carrying.
4. On November 17, 2010, the claimant applied for Medicaid, was denied on December 7, 2010 per BEM 260, and requested a hearing on December 28, 2010.

5. Claimant alleges disability due to asthma, bipolar disorder, mental illness, and back problems.
6. Medical exam on June 17, 2010 states the claimant's GAF score of 45 (Medical Packet, page 95).
7. Medical exam on October 18, 2010 states the claimant's GAF score of 60 (Medical Packet, page 41).
8. Undated report states the claimant's mental residual functional capacity assessment that he is not significantly limited in the ability to remember locations and work-like procedures, understand and remember one- or two-step instructions, understand and remember detailed instructions, carryout simple one of two-step instructions, carrying out detailed instructions, maintain attention and concentration for extended periods, perform activities within a schedule, maintain regular attendance, and be punctual with customary balances, sustain an ordinary routine without supervision, working in coordination with or proximity to others without being distracted by them, make simple work-related decisions, complete a normal workday and work week without interruptions from psychologically based symptoms and to perform at consistent pace without an unreasonable number and length of rest periods, ask simple questions or request assistance, maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness, beware of normal hazards and take appropriate precautions, travel in unfamiliar places or use public transportation, and set realistic goals or make plans independently of others (Medical Packet, page 21).
9. Medical exam on November 3, 2010 states the claimant can work at his usual occupation or at any job (Medical Packet, page 17).
10. Medical exam on November 15, 2010 states the claimant's GAF score of 55 (Medical Packet, pages 19 and 20).
11. Medical exam on March 28, 2011 states the claimant's GAF score of 64 (Claimant Exhibit A, page 2).
12. SHRT report dated February 3, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Claimant Exhibit A, page 2).

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).

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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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 claimant is not engaged in substantial gainful activity and has not worked since February 2009. Therefore, disability is not denied at this step.

At Step 2, the claimant has the burden of proof of establishing that she has a severely restricted mental or physical impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical and medical evidence in the record that claimant suffers a severely restrictive mental or physical impairment. In short, the claimant has restricted himself from tasks associated with occupational functioning based on his disabling complaints rather than medical findings. Reported symptoms are an insufficient basis upon which a finding that claimant has met the evidentiary burden of proof can be made. This Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restricted mental or physical impairment. Therefore, disability is denied at Step 2.

If claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of the claimant's condition does not give rise to a finding that he would meet a statutory listing in the Code of Federal Regulations.

If claimant had not already been denied at Step 2, the Administrative Law Judge would have to deny him again at Step 4. Based upon his ability to perform his past relevant work. There is no evidence upon which this Administrative Law Judge could base a finding that claimant is unable to perform work in which he has engaged in the past. Therefore, if claimant had not already been denied at Step 2, he would be denied again at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

If the claimant had not already been denied at Steps 2 and 4, he would be denied again at Step 5. At Step 5, the objective medical evidence 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 to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do his sedentary tasks 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. The claimant's testimony as to his limitations indicates that he should be able to perform sedentary-type work as defined above. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by the objective medical evidence that he cannot perform sedentary work even with his impairments. Under the Medical-Vocational Guidelines, a younger individual age 48, with a high school education or more and an unskilled/semi-skilled work history who is limited to sedentary work is not considered disabled.

In addition, the claimant received unemployment compensation benefits before, during, and after date of application. In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. He must be totally or partially unemployed. He must have an approvable job separation. Also, he must meet certain legal requirements which include being physically and mentally able to work, being available for and seeking work, and following a weekly claim for benefits on a timely basis. This Administrative Law Judge finds that claimant has not established that he has a severe impairment or combination of impairments which have lasted or will last the durational requirements of 12 months or more or have kept him from working for a period of 12 months or more.

Therefore, the claimant has not established eligibility, 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 A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 2, 2011

Date Mailed: August 3, 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 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.

WAS/tg

cc:

