

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

IN THE MATTER OF:



Reg. No: 201115836
Issue No: 2009
Case No: [REDACTED]
Hearing Date: April 21, 2011
Monroe 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. 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) In June/July 2008, the Claimant was laid off from his last job and never drew Unemployment Compensation Benefits (UCB).
- (3) Claimant's vocational factors are: age 34, GED, and past work experience as a semi-skilled production-line welder, unskilled press operator of parts weighing approximately half a pound, sit down production-line job assembling tiny parts weighing less than half a pound, and skilled welder of body parts.
- (4) On August 27, 2010, the Claimant applied for MA, was denied on December 22, 2010, per BEM 260, and requested a hearing on January 6, 2011.

- (5) Claimant's disabling complaints are: gout, anxiety, bipolar disorder, depression, and kidney stones (Medical Packet, Page 87).
- (6) Medical exam on [REDACTED], states a GAF of 50 to 55 (Medical Packet, Page 32).
- (7) Medical exam on [REDACTED], states that multiple projections of both knees and feet reveal the osseous, soft tissue structures in joint spaces to be intact and normal (Medical Packet, Page 11).
- (8) Medical exam on [REDACTED], states the Claimant can ambulate without any assistance, and can dress and undress without any difficulty; that heel, toe, and tandem walking was normal; that movement at all joints are normal; that grasp is 4/5; that he can get on and off the examination table without any difficulties; that fist formation was normal; and that gait and balance are normal (Medical Packet, Page 10).
- (9) Medical exam on [REDACTED] states that the Claimant is oriented to time, person, and place; that he is in contact with reality; that he displays adequate judgment and insight; that he has low mood; that he has fair concentration and attention; that self-esteem is low; and stated a GAF of 50 (Medical Packet, Pages 6 and 7).
- (10) Medical exam on [REDACTED], states the Claimant's condition is stable; that he is limited to frequent lifting/carrying 10 pounds and occasionally 50 pounds or more; that he can stand and/or walk about 6 hours out of an 8 hour work day and sit about 6 hours; that he can use his extremities on a repetitive basis; and that he has no mental limitations (Medical Packet, Page 13).
- (11) SHRT report dated February 15, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 87).

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 establishes that the Claimant is not 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.

...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.

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).

Therefore, disability is not denied at this step.

At Step 3, the objective medical evidence does not establish that the Claimant's impairments meet/equal a Social Security listing. Therefore, disability is not denied at this step.

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.

The Claimant admitted that he probably could do his past work, but for his disabling mental condition, especially the sit-down production-line assembly of valve parts weighing less than half a pound.

The GAF of 50 to 55 in [REDACTED], establishes a non-severe mental impairment or only moderate difficulty with job-functioning.

The Claimant's exam in [REDACTED], establishes his orientation to time, person, and place to be normal. Also, he had no difficulty in understanding, remembering, and answering questions at the hearing. And in [REDACTED], he had the capacity for physical work. The report stated he had the capacity for occasionally lifting/carrying 50 pounds or more. Also this report stated that the Claimant had no mental limitations.

Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not established 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 activities, as defined above. Therefore, the Claimant would be able to perform, at least, sedentary work. At this level, considering the Claimant's vocational profile (younger individual, age 34, GED, and past unskilled/semi-skilled work experience) he is not considered disabled under Vocational Rules 201.27 and 201.28. Therefore, disability is denied at Steps 4 and 5.

Therefore, the Claimant has not established disability, 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, MA denial is UPHELD.

/s/

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

Date Signed: May 11, 2011

Date Mailed: May 12, 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:

