

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-16083
Issue No. 2009
Case No. [REDACTED]
Hearing Date: May 24, 2011
Genesee County DHS (Dist. 5)

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, an In Person hearing was held on May 24, 2011.

Medical reports (Claimant Exhibits A and B) submitted 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 as material fact:

1. Claimant is currently unemployed.
2. Claimant's ending date of last employment is unknown.
3. Claimant is age 48, has a limited education and a history of skilled work as a mechanic and carpenter.
4. On February 17, 2010, the claimant applied for Medicaid (retroactive for three months), was denied on September 7, 2010 per BEM 260, and requested a hearing on November 24, 2010.
5. Claimant alleges disability due to. Diabetic Ketoacidosis, chronic chest, abdominal and back pain, uncontrolled diabetes, and a learning disability.

6. Medical exam on December 23, 2009 states the claimant is alert and oriented x3, speech clear and responds to commands; and fully verbal; that he is able to move all extremities; that he has a normal-distended abdomen; and that exam indicates that he has a problem with substance abuse (Medical Packet, pages 15 and 23).
7. Medical exam on January 8, 2010 states the claimant's mood and affect are normal (Claimant Exhibit A, page 26).
8. Medical exam on January 23, 2010 states that the claimant has no chest pain, shortness of breath, coughing, wheezing, or edema; and that he denies any back pain, joint pain, or joint swelling (Medical Packet, page 38).
9. Medical exam on March 30, 2010 states the claimant's examination areas are normal generally, respiratory, cardiovascular, mild tenderness over abdominal; that he is normal in the area of musculo-skeletal, neuro, and mentally; that his condition is improving; and that he has no physical/mental limitations (Medical Packet, pages 8 and 9).
10. Medical exam on July 1, 2010 states the claimant has a normal ambulatory status; that he is alert, oriented and fully verbal; that his speech is clear; that he responds to commands; and that he moves all extremities (Claimant Exhibit A, page 42).
11. Medical exam on April 24, 2011, states that the claimant has atypical chest pain, chronic pain, diabetes; that the exact cause of chest pain is not clear; that there is no evidence of a dangerous medical condition; and that at this time, the claimant is not able to go back to work (Claimant Exhibit B, pages 2 and 4).

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).

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, claimant is not engaged in substantial gainful activity and has not worked for an unknown period.

At Step 2, claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical medical evidence in the record that claimant suffers a severely restrictive physical or mental impairment. Claimant has reports of pain in multiple areas of his body; however, there are no corresponding medical findings that support the reports of symptoms and limitations made by the claimant. Claimant was oriented to time, person, and place during the hearing. Claimant was able to answer all of the questions at the hearing and was responsive to the questions. The evidentiary record is insufficient to find that claimant suffers a severely restrictive physical and mental impairment. For these reasons, this Administrative Law Judge finds that claimant has failed to meet his burden of proof at Step 2. Claimant must be denied benefits at this step based upon his failure to meet the evidentiary burden.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment. 20 CFR 416.929(a).

A statement by a medical source finding that an individual is “disabled” or “unable to work” does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e). The medical evidence of record in May 2011 states that the claimant is unable to work at this time. But there is no objective medical evidence of record in support of this conclusion. “Also, at this time” is more than one year after the date of the application and beyond the duration limitation. And to the contrary, the medical evidence in March 2010 states that the claimant has no mental/physical limitations.

Therefore, disability is denied at this step.

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

No treating, examining, or non-examining physician has found that any of the claimant’s impairments would meet the listing of impairments.

If claimant had not already been denied disability at Step 2, he would be denied again at Step 4.

At Step 4, the objective medical evidence does not establish the claimant’s inability to do any of his past work, despite his impairment. Therefore, disability is denied at this step.

If the claimant had not already been denied disability at Steps 2 and 4, he would be denied 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 light or 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. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant has no residual functional capacity. 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, as defined above, even with his impairments. **Under the Medical-Vocational Guidelines, a younger individual, age 48, with a limited education and a past skilled work history who is limited to sedentary work is not considered disabled.** Therefore, disability is denied at Steps 2, 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, 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 23, 2011

Date Mailed: August 23, 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

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