

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-2054
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: February 15, 2011
Oakland County DHS (Dist. #3)

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 February 15, 2011.

ISSUE

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

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. In April 2010, the claimant ended his last employment.
3. Claimant's vocational factors are: age 37, 12th grade education, and past semi-skilled work as a restaurant waiter and skilled construction worker.
4. On July 27, 2010, the claimant applied for Medicaid/SDA, was denied on August 13, 2010 per BEM 260/261, and requested a hearing on August 24, 2010.
5. Claimant alleges disability due to back, leg and feet pain, and asthma.

6. Medical exam on February 1, 2010 states the claimant, regarding lumbar radiculopathy, the vertebral body heights and disc spaces are well-maintained; that no focal disc protrusion canal stenosis or neural foraminal effacement is identified. (Medical Packet, page 13.)
7. Medical exam on July 9, 2010 states the claimant without the use of a cane, his gait is broad based and flat footed; that he tends to tilt to the left as he walks; that with the foot pain it is apparent that he cannot stand on heels, toes or tandem walk; that when attempting to squat, it produces a complaint of foot pain; that straight leg raising is negative to 90 degrees sitting referable to any back or radicular-type pain, that there is voluntary decreased range of motion of the lumbar spine; that forward flexion of the trunk is to 70 degrees; that there is a full range of motion of the knees and ankles; that coordination is intact; that he should be able to open a jar, pick up a coin, write, button, tie shoelaces; that he has a normal range of motion of a cervical spine, lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, and hands/fingers; that he should be able to sit, stand, bend, stoop, carrying with limitation, push/pull, button clothes, tie his shoes, dress, undress, dial telephone, open door, make a fist, pick up a coin, pick up pencil, write, squat and arise from squatting with pain, get on and off examining table, and climb stairs; that his gait is stable and broad based without cane; and that he uses a cane to reduce pain (Medical Packet, pages 49 to 54; B60 and B61).
8. Medical exam on July 9, 2010 states that the left knee has no significant osseous or articular abnormality (Medical Packet, pages 55 and B6B).
9. SHRT report dated October 28, 2010 states the claimant's impairments do not meet/equal the Social Security listing (Medical Packet, page 49).

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 since April 2010. 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 physical work activities, as defined below, 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).

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.

At Step 4, the objective medical evidence establishes the claimant's inability to do any of his past physical work such as a restaurant waiter and construction worker. Therefore, disability is not denied at this step.

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, as defined above, to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do 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 limitation indicates that he should be able to perform sedentary-type work. 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 on the fact that he has not established by objective medical evidence that he cannot perform sedentary work even with his impairments. **Under the Medical-Vocational**

Guidelines, a younger individual age 37, with a high school education, and a semi-skilled/skilled work history, who is limited to sedentary work is not considered disabled. Therefore, disability is denied at this step.

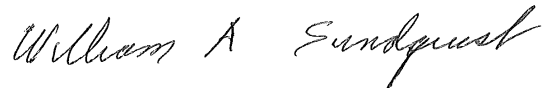
The Department's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 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, 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/SDA denial is UPHELD.



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

Date Signed: August 22, 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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cc:

