

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

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED]

Reg. No. 2011-21160  
Issue No. 2009  
Case No. [REDACTED]  
Hearing Date:  
Shiawassee 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, an in-person hearing was held on July 26, 2011.

**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 was absent from the hearing and is currently unemployed according to his representative.
2. In July 2010, claimant quit his last job for medical reasons; thereafter the representative does not know whether or not the claimant went on unemployment compensation benefits.
3. Claimant's vocational factors are: age 61, 12<sup>th</sup> grade education, and past semi-skilled work experience in sedentary-type work.
4. On August 12, 2010, the claimant applied for Medicaid, was denied on November 19, 2010 per PEM 260, and requested a hearing on February 14, 2011.

5. Claimant alleges disability due to abdominal pain, stomach problems, diverticulitis, high blood pressure, back pain, kidney problems, and liver problems (Medical Packet, pages 17 and 60).
6. Medical exam on December 10, 2009 states the claimant's musculoskeletal area is aligned, symmetrical, with no crepitation, defects, tenderness, masses or effusion; that he has a full range of motion with no pain or contracture, dislocation, subluxation, or laxity; that his muscle tone is 5/5; that gait is stable; and that coordination and strength are intact (Medical Packet, page 47).
7. Medical exam on May 21, 2010 states the claimant had mild to moderate stress due to abdominal pain, gassiness, and distention; and that he is well-developed, and well-nourished (Medical Packet, page 23).
8. Medical exam on May 21, 2010 supports the claimant's claim of physical impairment (Medical Packet, page 20).
9. SHRT report dated March 8, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 60).

### **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.

At Step 1, claimant is not engaged in substantial gainful activity and has not worked since July 2010. Therefore, disability is not denied at this step.

At Step 2, the claimant has the burden of proof of establishing that he has a severely restricted physical 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 impairment. Claimant has reports of pain in multiple areas of his body; however, there are no corresponding clinical findings that support the reports of symptoms and limitations made by the claimant. In short, claimant has restricted himself from tasks associated with occupational functioning based upon his reports of pain (symptoms) 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 physical impairment that has lasted for the required one year duration. 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 need 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.

The claimant alleges eligibility under Step 3. SHRT has evaluated the claimant's eligibility under all listings. The claimant does not meet the severity/duration requirements of a Listing.

If claimant had not already been denied at Step 2, this 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 disability 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.

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

Claimant has submitted insufficient objective medical evidence that 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 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 has the capacity for sedentary 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 upon the fact that he has not established by the medical evidence that he cannot perform sedentary work even with his impairments. Under the Medical-Vocational Guidelines, an advanced aged individual of 61, with a high school education, and a semi-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*

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

Date Signed: August 2, 2011

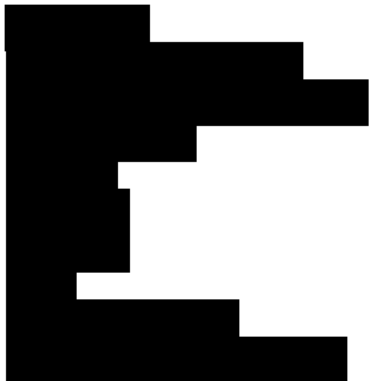
Date Mailed: August 3, 2011

**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:

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