

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-24677

Issue No: 2009

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on [REDACTED]. The claimant was represented by [REDACTED]. The claimant appeared and provided testimony, along with [REDACTED]. [REDACTED] provided testimony on behalf of the department.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team ("SHRT") for consideration. On April 16, 2012, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], claimant applied for MA with the Michigan Department of Human Services (DHS).
2. Claimant applied for retro MA.
3. On [REDACTED] 011, the MRT denied.
4. On [REDACTED], the DHS issued notice.

5. On [REDACTED], claimant filed a hearing request.
6. Claimant testified at the administrative hearing that he has an SSI application pending with the Social Security Administration (SSA).
7. On [REDACTED], the State Hearing Review Team (SHRT) denied claimant. Pursuant to the claimant's request to hold the record open for the submission of new and additional medical documentation, on [REDACTED], [REDACTED] SHRT once again denied claimant.
8. As of the date of hearing, claimant was a [REDACTED] standing 5'5" tall and weighing 234 pounds. Claimant has a high school education.
9. Claimant testified that he does not smoke cigarettes, drink alcohol or use illegal drugs.
10. Claimant testified that he does not have a driver's license as it is suspended.
11. Claimant is not currently working. Claimant last worked in approximately [REDACTED] working as a [REDACTED]. Claimant testified that he has also worked as a [REDACTED]. Claimant testified that he tried to pass the Certified Nurse Aid (CNA) test about [REDACTED], but did not pass the test.
12. Claimant alleges disability on the basis of coronary artery disease, quadruple bypass surgery, diabetes, neuropathy, left foot bursitis, left shoulder pain and learning disabilities.
13. An [REDACTED] 0 progress note indicates that the claimant reported pain in his left shoulder, which had been present since a motor vehicle accident. Examination of the left shoulder showed limited range of motion with internal rotation as well as abduction limited to about 45 degrees.
14. A [REDACTED] progress note indicates that the claimant reported some improvement in his shoulder pain and an x-ray of the shoulder joint showed no abnormal findings.
15. A [REDACTED] stress test found wide spread ischemia suggesting left main coronary artery stenosis with reduction of left ventricular wall motion and ejection fraction reduced to 45%.
16. Claimant was admitted to the hospital on [REDACTED] for a left heart catheterization, left ventriculography, coronary angiography and carotid duplex scan. Claimant was found to have severe multivessel coronary artery disease with preserved left ventricular function.

17. On [REDACTED] the claimant was admitted to the hospital for his coronary [REDACTED]. The claimant had some difficulty controlling his blood sugar postoperatively, which required the addition of insulin therapy. However, he stabilized and was discharged on [REDACTED]
18. A [REDACTED] progress note indicates the site of the vein harvesting on the right leg and the sternotomy site were both healing well. The claimant had no chest pain with exertion since the surgery. The claimant's diabetes seemed to be well controlled.
19. A [REDACTED] chest X-ray found the heart was not enlarged and no heart failure findings were seen centrally.
20. An [REDACTED] progress note indicates the claimant's diabetes seems to be well controlled. The claimant's blood pressure was 110/78, which was less than the goal of 130/80. The claimant's LDL was 60 at last check, with the goal of less than 100. The claimant's coronary artery disease was stable.
21. On [REDACTED], Claimant's physician completed a series of forms for his representative. The physician indicated that the claimant's condition was stable. The claimant was indicated to have numbness in the left leg/foot and was rated 3/5 on a monofilament test. The claimant could lift up to 10 pounds frequently and 20 pounds occasionally. The claimant should stand and/or walk less than two hours in a work day. The claimant could use both hands/arms and feet/legs. Claimant's cardiac disease did not limit his ordinary physical activity, but he should not be involved in severe or competitive physical activity.
22. On [REDACTED], an independent medical evaluation was conducted. Examination found no heart murmurs appreciated. There was decreased range of motion of the left shoulder secondary to pain. There were positive peripheral neuropathies. The claimant was unable to do heel/toe walk secondary to neuropathies of left leg. The claimant fatigues easily with any activity.
23. While Claimant testified that he was not involved in special education in school, he did have trouble with his classes and teachers identified him as needing extra assistance.

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 (RFT).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

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

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity. 20 CFR 404.1520(e) and 416.920(e). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered. 20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8.

The Claimant's treating physician completed documentation on [REDACTED] to indicate the Claimant's capabilities. Even if this Administrative Law Judge accepts these limitations, this would indicate the Claimant is capable of sedentary work. The Claimant's treating physician indicates that Claimant could lift up to 10 pounds frequently and 20 pounds occasionally. The claimant should stand and/or walk less than two hours in a work day. The claimant could use both hands/arms and feet/legs. Claimant's cardiac disease did not limit his ordinary physical activity, but he should not be involved in severe or competitive physical activity. No mental limitations were noted. These limitations do not prevent the Claimant from engaging in sedentary work. Therefore, the Claimant is found to be capable of at least sedentary work.

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f) and 416.920(f). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA. 20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965. If the claimant has the residual functional capacity to do his/her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

In this case, based upon the testimony that the Claimant provided, it does not appear the Claimant could return to his previous work. The testimony Claimant gave indicates the Claimant's previous work was greater in exertional level than sedentary. The analysis continues.

At the last step of the sequential evaluation process, the Administrative Law Judge must determine whether the claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. 20 CFR 404.1520(g) and 416.920(g).

Claimant has submitted insufficient objective medical evidence that he lacked the residual functional capacity to perform at least sedentary work if demanded of him. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant had no residual functional capacity to perform other work. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he could not perform at least sedentary work. Under the Medical-Vocational guidelines, a younger individual (age [REDACTED] with a high school education or more and a semi-skilled work history (not transferrable) that can perform at least sedentary work is not considered disabled pursuant to Medical-Vocational Rule 201.21.

The 6th Circuit has held that subjective complaints are inadequate to establish disability when the objective evidence fails to establish the existence of severity of the alleged pain. *McCormick v Secretary of Health and Human Services*, 861 F2d 998, 1003 (6th cir 1988).

As noted above, claimant has the burden of proof pursuant to 20 CFR 416.912(c). Federal and state law is quite specific with regards to the type of evidence sufficient to show statutory disability. 20 CFR 416.913. This authority requires sufficient medical evidence to substantiate and corroborate statutory disability as it is defined under federal and state law. 20 CFR 416.913(b), .913(d), and .913(e); BEM 260. These medical findings must be corroborated by medical tests, labs, and other corroborating medical evidence that substantiates disability. 20 CFR 416.927, .928. Moreover,

complaints and symptoms of pain must be corroborated pursuant to 20 CFR 416.929(a), .929(c)(4), and .945(e). Claimant's medical evidence in this case, taken as a whole, simply does not rise to statutory disability by meeting these federal and state requirements. 20 CFR 416.920; BEM 260.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is **UPHELD**.

/s/ _____
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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 mailing date of the rehearing decision.

SLM/jk

cc: _____
MAHS