

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

IN THE MATTER OF:



Reg. No: 20112578
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: December 8, 2010
St. Clair 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 December 8, 2010. The claimant appeared and testified.

Medical reports (Claimant Exhibit A) recommended by SHRT and submitted after the hearing for SHRT review delayed the D&O below.

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 applied for MA/SDA on July 12, 2010, and was denied on September 28, 2010 per PEM 260/261, and requested a hearing on October 5, 2010.
- (2) Claimant is age 54 with a high school education.
- (3) Claimant is not currently employed.
- (4) Claimant's last employment ended in 2000/2001 after leaving for mental/physical reasons.
- (5) Claimant's past employment was for over 18 years as a supervisor of skilled work in the injection molding industry, ending in September 2000/2001 (Medical Packet, Page 7).
- (6) Claimant's disabling complaints are: poor memory and anger; internal head pain, chronic chest pain, chronic whole back pain, numbness of left arm and two small fingers of left hand, and chronic pain in left knee/ankle.

- (7) Medical exam on [REDACTED], regarding a knee injury in October 2009, states that the claimant's knee is doing well with a knee brace (Medical Packet, Page 66).
- (8) Medical exam on [REDACTED] states a GAF of 40 based on a diagnosis of major depression, recurrent, minor, non psychotic (Medical Packet, Page 99).
- (9) Medical exam on [REDACTED], states lower extremity range of motion is normal; that there is left knee tenderness but nothing acute in exam, and that there is no swelling, abrasion or erythema (Medical Packet, Page 34).
- (10) Medical exam on [REDACTED], states that the claimant is generally alert, and in moderate distress; that she is tender about the left knee with loss of ROM; that he has normal speech, normal coordination, good sensation in both legs, and motor skills, and cooperative with appropriate mood and affect (Medical Packet, Pages 2 and 3).
- (11) Medical exam on [REDACTED], states the claimant is well-developed and well-nourished and appears in no acute distress; that there is a full range of motion in the hip joints bilaterally; that he has a knee brace on the left leg and limitation of leg movements and tenderness; that he has mild deficit with sensory perception to pin prick, and oriented to person, time and place (Medical Packet, Page 3a).
- (12) Medical exam on [REDACTED], states the claimant is cooperative in answering questions and following commands; that his immediate, recent and remote memory is intact with normal concentration; that insight and judgment are both appropriate; that there is no evidence of joint laxity, crepitation, or effusion; that there is severe synovial thickening in the left knee; that grip strength remains intact; that dexterity is unimpaired; that the claimant could button clothing and open a door; that he was able to get on and off the examination table, heel and toe walk, squat and hop; that straight leg raising is negative; that range of motion studies are normal for the cervical spine, dorsal lumbar spine, shoulders, elbows, knees, ankles, wrist, and hands-fingers, and hips; that motor strength is reduced to 2/5 power in the left lower extremity; that tone is normal; that there is atrophy of left leg; that Romberg testing is negative; that claimant has significant deterioration of the left knee and weakness in the left foot; that he did have atrophy of the left leg due to lack of use; that he is not able to ambulate because he can not weight bear on his left foot; that in the short term he requires a brace and his wheelchair for ambulation; that his upper extremities appear normal (Medical Packet, Pages 1b-1e).
- (13) SHRT report dated February 9, 2011, states the claimant's impairments do not meet/equal a social security listing.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

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 (90 days for SDA)? 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 claimant is not currently engaged in any substantial gainful activity (SGA), and therefore, not disqualified from receiving disability at Step 1.

At Step 2, the objective medical evidence of record establishes the claimant's severe mental/physical impairment, as defined below, based on the de minimus standard.

Therefore, the claimant is not disqualified from receiving disability at Step 2.

At Step 3, the claimant's severe mental/physical impairment does not meet/equal a social security listing. Therefore, the claimant is not disqualified from receiving disability at Step 3.

At Step 4, the objective medical evidence is insufficient to establish the claimant's inability to perform his past work as a semiskilled supervisor, despite his severe mental/physical impairment. Therefore, the claimant is disqualified from receiving disability at Step 4.

If the claimant had not already been denied at Step 4, he would be denied at Step 5. At Step 5, the objective medical evidence of record establishes the claimant's residual functional capacity for other work in the national economy despite his severe mental/physical impairment limitations.

...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).

...When we assess your mental abilities, we first assess the nature and extent of your mental limitations and restrictions and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to carry out certain mental activities, such as limitations in understanding, remembering, and carrying out instructions, and in responding

appropriately to supervision, coworkers, and work pressures in a work setting, may reduce your ability to do past work and other work. 20 CFR 416.945(c).

...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 testimony that he has no residual functional capacity, based on his disabling complaints above, for any work, is not supported by the objective medical evidence. The undisputed medical facts stated above do not support the claimant's disabling complaints above and established the claimant's RFC for, at least, sedentary work, as defined below. At this level, considering the claimant's vocational profile (advanced age, high school education, and skilled work history) he is not considered disabled under Vocational Rule 201.15. Therefore, claimant is disqualified from receiving disability at Step 5.

Therefore, the claimant has not established disability as defined above, by the preponderance of the medical evidence of record. 20 CFR 416.912 (a); PAM 600.

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/SDA denial is UPHELD.

/s/

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

Date Signed: May 10, 2011

Date Mailed: May 11, 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 /ds

cc:

