

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

IN THE MATTER OF:

██████████  
██████████████████  
██████████████████

Reg. No. 2011-25826  
Issue No. 2009  
Case No. ██████████  
Hearing Date: July 21, 2011  
Genesee County DHS (#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 July 21, 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 is currently unemployed.
2. In 2008, the claimant was laid off from his last job.
3. Claimant's vocational factors are: age 34, 10<sup>th</sup> grade education, and past unskilled work in telecommunications, sit down job as an sex phone operator, answering sex-related questions, and construction work.
4. On June 9, 2010, the claimant applied for Medicaid (retroactive for one month), was denied on December 9, 2010 per BEM 260, and requested a hearing on March 4, 2011.
5. Claimant alleges disability due to coronary artery disease (Medical Packet, page 57).

6. Medical exam on June 11, 2009 states the claimant was seen for follow-up after undergoing a Holter monitor which did not reveal any arrhythmias; that he denies any new systems of chest pain, and shortness of breath; that lungs are clear to auscultation, anteriorly and posteriorly; that there was no wheezing and respiratory rate. It's normal; that heart rhythm is regular; that there is no clicks or rubs; that there is no musculoskeletal deformities; and that muscle strength appears normal (Medical Packet, page 15).
7. Medical exam on May 20, 2010 states that at this time claimant will need to continue risk factor modification and medical therapy for his coronary artery disease; that today probably he will be discharged home on medications; and that he will follow-up with his primary cardiologist (Medical Packet, page 11).
8. Medical exam on August 26, 2009 states that the claimant had ischemic cardiomyopathy and underwent an angioplasty of the left anterior descending artery and the right coronary vessel on May 8, 2009 and May 11, 2009; and that his current cardiac condition is **moderately severe** requiring consistent monitoring (Medical Packet, page 14).
9. SHRT report dated April 12, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 57).

### **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.

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, the evidence establishes that the claimant is not currently engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record establishes that 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 claimant does not have an impairment or combination of impairments that meet/equal one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 416.920(d), 416.925 and 416.926).

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 stringent severity/duration requirements of any Listing.

At Step 4, the objective medical evidence does not establish the claimant's inability to do any of his past work for the required duration, despite his severe physical impairment as a sit-down worker in phone sex communications.

At Step 5, the 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 sedentary tasks if demanded of him. Claimant has failed to provide the necessary objective medical evidence to establish that he has a severe physical 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 should be able to perform sedentary work. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that the 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 objective medical evidence that he cannot perform sedentary work as defined below even with his impairments. Under the Medical-Vocational Guidelines, a younger individual age 34, with a 10<sup>th</sup> grade education and an unskilled work history who is limited to sedentary work is not considered disabled.

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).

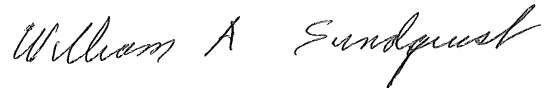
Therefore, the claimant is denied disability under Steps 4 and 5.

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 established.

Accordingly, Medicaid denial is UPHELD.



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

Date Signed: July 27, 2011

Date Mailed: July 27, 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:

