

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

IN THE MATTER OF:

[REDACTED]

Reg No: 201128939
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: June 27, 2011
Oakland County DHS-02

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 June 27, 2011. The Claimant appeared and testified along with his brother and representative [REDACTED]. [REDACTED] AP Supervisor appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's MA and SDA applications?

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 applied for MA-P and SDA on September 10, 2010 and October 22, 2010 respectively.
2. The Medical Review Team denied the MA and SDA applications on March 12, 2011.
3. Claimant filed a request for hearing on March 22, 2011 regarding the MA and SDA denial.
4. A hearing was held on June 27, 2011.
5. On April 28, 2011 the State Hearing Review Team denied the application because the medical evidence of record indicates that Claimant retains the capacity to perform a wide range of simple, unskilled medium work.

6. Claimant is 5'9" tall and weighs 197 pounds.
7. Claimant is 53 years of age.
8. Claimant's impairments have been medically diagnosed as hypertension, acid reflux, hyperlipidemia, left side weakness, speech and cognitive problems associated with stroke, fatigue, and pain.
9. Claimant has the following symptoms: pain, headaches, left side weakness, balance difficulty, memory problems, difficulty concentrating and insomnia.
10. Claimant completed the 10th grade.
11. Claimant is not able to read, write, and perform basic math skills with difficulty. Claimant needs assistance filling out paper work
12. Claimant is not currently working.
13. Claimant last worked doing lawn care.
14. Claimant lives with his brother.
15. Claimant testified that he cannot perform most household chores.
16. The Claimant's limitations have lasted for 12 months or more.
17. Claimant has taken no medication in the last month due to lack of affordability.
18. Claimant testified to the following physical limitations:
 - i. Sitting: 5 minutes
 - ii. Standing: 5 minutes
 - iii. Walking: 50 feet
 - iv. Bend/stoop: difficulty
 - v. Lifting: no weight
 - vi. Grip/grasp: limitations with left hand
19. Physical therapy has been ordered for Claimant but his in unable to complete it because of his lack of insurance and affordability.
20. Claimant received a GAF score of 61 in January 2011 as part of a psychological examination.

21. Claimant has a history of cocaine use.
22. Claimant was hospitalized with a stroke in August 2010.

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 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 (formerly known as the Family Independence Agency) 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 Program Reference Manual (PRM).

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 R 416.901). The Department, 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.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process fore valuating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following factors:

The first factor to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant is not working. Therefore, the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is whether the severity of the impairment. In order to qualify the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysis, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record does not support a finding that the Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listings 4.12, 11.04, and 12.04 were considered.

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CFR 416.913. A conclusory statement by a physician or mental health professional that an individual is disabled or blind is

not sufficient, without supporting medical evidence, to establish disability. 20 CFR 416.927.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, the Claimant's past employment was as a lawn care worker. Being a lawn care worker is considered light to medium work. The Claimant's impairments would not prevent him from doing past relevant work as a lawn care worker. This job involves simple repetitive tasks and Claimant's mental health issues would not preclude him from doing this work. Claimant's assessment of his own ability to perform standing, sitting, walking and lifting was not supported by the medical records in the file. Therefore this Administrative Law Judge finds that Claimant is not disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision is hereby **AFFIRMED**.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 1, 2011

Date Mailed: August 1, 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 60 days of the filing of the original request.

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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.

AM/cr

Cc:

