

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

IN THE MATTER OF:



Reg. No: 20113740
Issue No: 2009
Case No: [REDACTED]
Hearing Date February 24, 2011
Oakland 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 February 24, 2011. The claimant appeared and testified.

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 on August 24, 2010, and was denied August 15, 2010, per BEM 260, with a hearing request on October 15, 2010.
- (2) Claimant's age is 56 with a 12th grade education.
- (3) Claimant is currently unemployed; he has been on Unemployment Compensation Benefits (UCB) since termination of his last employment in November of 2009;, and plans on continuing his UCB until exhausted at the end of June 2011.
- (4) Claimant was last employed as a porter for a car dealership doing miscellaneous jobs for the service manager for 20 years.

- (5) On date of application, the Claimant's disabling complaints were bipolar disorder and renal insufficiency; at the hearing he admitted he had the ability to do his last job.
- (6) Claimant's ADLs include the following: fixes his own meals, does laundry and lawn care, drives to the store to do his own shopping, and there have been no changes in his ADL because of his disabling complaint.
- (7) SHRT reported dated November 17, 2010, states the Claimant's impairments do not meet/equal a Social Security listing; that he is able of performing past work as a car porter (Medical Packet, 199).

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).

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.

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 of record establishes that the Claimant is not engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence establishes that the Claimant is significantly limited in performing basic work activities as defined below, based on the *de minimus* standard.

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 objective medical evidence does not establish that the Claimant's impairments meet/equal a Social Security listing. Therefore, disability is not denied at this step.

At Step 4, the objective medical evidence is insufficient to establish that the Claimant has the inability to do his past work as a car porter, despite his severe impairment. And to the contrary, the Claimant admits he can do his past work. Also, his eligibility for past/current UCB shows that he is able and available for work. And his ADL supports his admission in UCB requirements. Therefore, disability is denied at this step.

Therefore, the Claimant has not established disability, as defined above by the preponderance of medical evidence of 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, MA denial is UPHELD.

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

Date Signed: May 9, 2011

Date Mailed: May 9, 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.

20113740/WAS

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/ar

cc:

