

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201144357
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: November 23, 2011
Jackson 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, an in-person hearing was held on Wednesday, November 23, 2011. Claimant appeared with his [REDACTED], [REDACTED].

Medical reports (Claimant Exhibits A and B) submitted at the hearing for a second SHRT review delayed the decision and order below?

ISSUE

Was disability, as defined below, medically established?

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 October 18, 2010, claimant applied for MA-P (and September retro)/SDA, was denied on April 14, 2011 per BEM 260/261, and requested a hearing on July 12, 2011.
2. On date of application, claimant was age 54, had a 12 grade education, and past work experience as a semi-skilled machine shop worker, restaurant [REDACTED] for [REDACTED], [REDACTED] stocker and cashier, and safety work at a race track on duty to assist in any accidents.
3. In 2005, claimant ended his last job.
4. Claimant alleges disability due to the following diagnosed disorders: carpal tunnel syndrome of the hands, feet, hip and knees pain, and bipolar disorder (Medical Packet, Page 170).

5. Medical exam on October 8, 2009, states the claimant's GAF score of 65 (Medical Packet, Page 108).
6. Medical exam on October 22, 2009, states the claimant is alert, awake and oriented x3, neurologically his cranial nerves II-XII are grossly intact; that deep tendon reflexes are within normal limits and symmetrical; that he can walk in the office without any assistance; that hand grip strength is within normal limits; that he is able to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make fist, pickup coin, pickup pencil, write, squat and arise from squatting, get on and off examining table, climb stairs; that he can walk on heels and toes in tandem; that his gait stable and within normal limits; that he does need a walking aide; that his overall grip strength is 5/5; and that his range of motion is normal for the cervical spine, lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, hands-fingers (Medical Packet, Pages 115-119).
7. Medical exam on June 9, 2010, states the claimant's examination areas are normal in general for HEENT, respiratory, cardiovascular, abdominal, musculoskeletal with the exception of tenderness over the right knee, neuro, and mental; that his condition is stable to deteriorating; that he can lift/carry frequently less than 10 pounds; that he can stand and/or walk less than 2 hours in an 8 hour work day and sit about 6 hours in an 8 hour work day; that he does not require assistive devices for ambulation; and that he should be able to use his upper extremities on a repetitive basis for reaching and pushing/pulling activities and his lower left extremities (Medical Packet, Page 91).
8. Medical exam on September 16, 2010, states the claimant is awake, alert and in no acute distress; that he has full range of motion of his extremities; that neurologically he is alert and oriented; that cranial nerves II-XII are intact without focal deficits; that motor and sensory exam is intact (Claimant Exhibit A, Page 7).
9. Medical exam on September 17, 2010, states the claimant musculoskeletally has no pain, muscle spasms, muscle twitching, or fasciculations; that psychiatrically he has no depression symptoms or psychosis symptoms (Claimant Exhibit A, Page 10).
10. Medical exam on September 17, 2010, states the claimant has a full range of motion of his extremities (Claimant Exhibit A, Page 5).
11. Medical exam on October 9, 2010, states the claimant's condition is stable (Claimant Exhibit A, Page 2).
12. Medical exam on October 14, 2010, states the claimant should be able to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pickup coin, pickup pencil,

write, squat and arise from squatting, get on and off examination table, climb stairs; walk and heels and toes; that his gait is stable and within normal limits; that he does not need any support for walking (Medical Packet, Pages 141-142).

13. Medical exam on October 14, 2010, states the claimant is alert, awake and oriented x3; that musculoskeletally he is able to get on and off the examination table; that he can walk on heel and toes; that he can squat; that he has a normal range of motion for cervical spine, lumbar spine and knees (Medical Packet, Pages 143-145).
14. Medical exam on October 21, 2010, states the claimant has a GAF score of 68 (Medical Packet, Page 149).
15. Medical exam on February 21, 2011, states the claimant's GAF score of 55 (Medical Packet, Page 164).
16. SHRT report dated August 30, 2011, states the claimant's impairments do not meet/equal a social security listing (Medical Packet, Page 170).

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 (BAM), the Program 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 (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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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.

...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 claimant has the burden of proof to establish disability as defined above by the preponderance of the evidence of record and in accordance with the 5 step process below. 20 CFR 416.912(a).

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, disability is not denied. Claimant has not been engaged in substantial gainful work since 2005.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the claimant's significant inability to perform basic mental/physical work activities for the one year **continuous** duration, as define below.

Severe/Non-Severe Impairment

...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).

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).

The question is this case is whether the claimant's medically diagnosed disorders and disabling complaints, on date of application, significantly limit his ability to perform basic work activities, as defined above. Said in another way, do diagnosed disorders impair the claimant slightly, mildly, moderately (non-severe) or severely?

Duration of Impairment

The medical evidence of record, on date of application, does not establish a severe mental/physical impairment that had lasted or was expected to last for a one year continuous duration.

Therefore, disability is denied at Step 2.

If disability had not been denied at Step 2, the analysis would proceed to Step 3 where evidence of record does not establish a severe impairment meeting/equaling a social security listing for the required duration.

The listing of impairments describes for each of the major body systems, impairments which are considered severe enough to prevent a person from doing any gainful activities. Most of the listed impairments are permanent, or expected to result in death, or specific statement of duration is made. For all others, the evidence must show the one year continuous duration. 20 CFR 416.925(a).

Claimant introduced no medical evidence of record by a treating, examining or non-examining physician addressing a social security listing(s). And to the contrary, the SHRT medical consultant addressed the matter and found insufficient medical evidence of disability under a social security listing.

If disability had not already been denied at Step 2, it would be denied at Step 4 where the medical evidence of record, on date of application, does not establish the claimant's inability, despite his impairments, to perform any of his past work for the required one year **continuous** duration.

If disability had not already been denied at Step 2, it would be denied at Step 5 where the medical evidence of record, on date of application, does not establish the claimant was without a residual functional capacity (RFC), despite his impairments, to perform any other work in the national economy for the required one year **continuous** duration.

...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).

...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).

The medical evidence of record, on date of application, does not establish that the claimant was without aa RFC for less strenuous work than his past work, such as sedentary work, as defined above. Under the medical-vocational guidelines, a person closely approaching advanced age of 54, with a 12 grade education and semi-skilled work history who is limited to sedentary work is not considered disabled.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

Therefore, disability has not been established at Step 2, and also at Steps 4 and 5, as defined above, by the 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 medically established.

Accordingly, Medicaid/SDA denial is **UPHELD**.

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

Date Signed: April 18, 2012

Date Mailed: April 19, 2012

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.

201144357/WAS

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/tb

cc:

