

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

IN THE MATTER OF:



Reg. No: 20118155
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date February 10, 2011
Monroe 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 10, 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/SDA application on September 14, 2010, and was denied November 1, 2010 per PEM 260/261 with hearing request November 9, 2010.
- (2) Claimant is age 46 and has a high school education with some college.
- (3) Claimant's past employment terminated on February 28, 2010, based on a physical-mental condition.
- (4) Claimant worked as a skilled artist full time and semiskilled receptionist part-time for a community health facility.
- (5) Claimant's disabling physical complaints are: Right hand finger movement causes pain radiating up to elbow and occasionally to the shoulder; and pain medication allows the claimant to partly tolerate the pain.

- (6) Exam on [REDACTED], states the claimant's right upper limb pain is most likely a symptom of right C6 and C7 radicular pain syndrome (Medical Packet, Page 45) (b).
- (7) Exam on [REDACTED], states the claimant's upper extremity has a normal range of motion (Medical Packet, Page 37).
- (8) Exam on [REDACTED], states the claimant does appreciate light touch on her fingers; that she was evaluated today relative to whether or not additional surgery would be of value to her; that in the doctors opinion, claimant is fortunate at this point to have the sensibility that she does have preservation of her motor function; that in addition she is fortunate that she has no neuromatous symptoms at this time; that additional surgery would not be of any value to the claimant; and that she is functioning reasonably well at this point considering everything (Medical Packet, Page 46).
- (9) Medical exam on [REDACTED], states the claimant had 50% of normal right hand grasp and 75% normal left hand grasp; and that she had mild atrophy in right hand (Medical Packet, Page 9 and 10).
- (10) SHRT report dated December 14, 2010, states the claimant's impairments do not meet/equal the intent or severity of a social security listing (Medical Packet, Page 98).

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? 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 engaged in substantial gainful activity and, therefore, not disqualified from receiving disability at Step 1.

At Step 2, the objective medical evidence of record establishes the claimants severe physical impairment defined below, based on the de minimus standard.

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

At Step 3, the claimant's severe 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, claimant's past employment is stated above (Fact #4). The objective medical evidence of record is insufficient to establish the claimant's inability to perform any of her past work, despite her severe impairment. Therefore, the claimant is disqualified from receiving disability at Step 4.

If the claimant had not already been denied at Step 4, she 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 despite her physical 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).

...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 she has no residual functional capacity, based on her disabling complaints above, for any work, is not supported by the objective medical evidence. To the contrary, when considering only the objective medical evidence of record, claimant would be able to perform at least sedentary work activities. At this level, considering the claimant's vocational profile (younger individual, high school graduate, and semiskilled/skilled work experience) she is not considered disabled under Vocational Rule 201.21. Therefore, claimant is disqualified from receiving disability at Step 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 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 16, 2011

Date Mailed: May 16, 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/ar

cc:

