

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201110318
Issue No: 4031; 2009
Case No: [REDACTED]
Hearing Date March 2, 2011
Ogemaw 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 March 2, 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 (retro)/SDA on June 29, 2010, and was denied per BEM 260/261.
- (2) Claimant is 49 and has a 12th grade education.
- (3) Claimant is currently unemployed.
- (4) Claimants past employment for 15 years was Sedentary administrative work as defined below which ended in January of 2005 due to medical and marital reasons.
- (5) Claimant's disabling physical complaints are limited to 2 hours sitting at one time because of chronic severe headaches, occasional seizures, chronic severe pain in arm, neck and left leg, and can't drive a motor vehicle because of being under medication.
- (6) Medical Reports:

- (a) Exam on [REDACTED], states the claimant's neck is supple without masses; that there is no evidence of joint laxity crepitation or effusion; that there is mild synovial thickening in the left leg; that grip strength remains in tact; that dexterity is unimpaired; that patient could pick up a coin, button clothing and open a door; that the claimant had no difficulty getting on and off the examination table, no difficulty heel and toe walking, mild difficulty squatting, and mild difficulty hopping; that straight leg raising is negative; that range of motion is normal for the dorsal lumbar spine, cervical spine, shoulders, elbows, hips, knees, ankles, wrist, and hands-fingers; and that the claimant walks with a normal gait without the use of an assist device (Medical Packet, Pages 4-6).
- (b) SHRT report dated January 5, 2011, states the claimants physical impairments do not meet/equal a social security listing (Medical Packet, Page 79),.

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 undisputed facts above establish the claimant is not engaged in substantial gainful activity (SGA). Therefore, disability is not denied at this Step.

At Step 2, the undisputed medical facts above do not establish a severe physical impairment for the required duration(s) defined below based on the de minimus standard.

The medical evidence does not establish that the claimant is significantly limited in performing basic physical work activities as defined below. To the contrary, the medical evidence establishes a non-severe physical impairment as defined 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 and 90 days for SDA. 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 denied at this step.

At Step 3, the undisputed facts above does not establish the claimant's non-severe physical impairments meet/equals a social security listing. Therefore, disability is not denied at this step.

If disability had not already been denied at Step 2, it would be denied at Step 4. At Step 4, the undisputed medical facts above do not establish the claimant's inability to perform her past work stated above, despite her non-severe physical impairment. The medical evidence does not support the claimants disabling complaints above. Therefore, disability is denied at this Step.

If the claimant had not already been denied disability at Steps 2 and 4, it would be denied at Step 5. At Step 5, the undisputed medical facts above do not establish that claimant has no RFC for other work in the national economy, despite her non-severe physical impairment.

...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 disabling complaints above that she has no RFC for any work is not supported by the undisputed medical evidence. When considering only the objective medical evidence of record, the claimant would be able to perform at least her past sedentary work as defined above. At this level, considering the claimant's vocational profile (younger individual age 49, high school graduate, and semiskilled work experience) she is not considered disabled under Vocational Rule 201.21. Therefore, disability is denied at this Step.

Because the evidence of record does not establish that the claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for SDA either.

Therefore, the claimant has not established disability, as defined above, by the preponderance of the 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/SDA denial is UPHELD.

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

Date Signed: May 18, 2011

Date Mailed: May 19, 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.

201110318/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:

