

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

IN THE MATTER OF:



Reg. No: 201111012
Issue No: 4031
Case No: [REDACTED]
Hearing Date March 15, 2011
St. Clair 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 15, 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 SDA on August 27, 2010 based on inability to do any work because of a neck injury requiring surgery from upper neck, down back 7 inches (Medical Packet, Page 115). And was denied on November 19, 2010 per BEM 261 with a hearing request on November 28, 2010.
- (2) Claimant's age is 43 and education GED.
- (3) Claimant is currently unemployed.
- (4) Claimant's past employment: Grounds Keeper, doing maintenance, cutting grass, and lowering caskets into the ground and semiskilled assembly line worker for the Ford Motor Company requiring standing and assembling parts weighing any where from 15-20 pounds to the cars on the line. In July 2007 claimant had a buy-out from the company and thereafter drew unemployment compensation benefits for 1 year until exhaustion in June, 2010 at which time she had surgery on her neck and filed for social security benefits with the outcome still pending (Medical Packet, Page 44).

- (5) Medical report of exam on May 18, 2010, states the claimant has difficulty ambulating in tandem; that she has tenderness to palpitation of the cervical spine; that she has limited range of motion of both cervical and lumbar sacral spine; that the claimant has diffuse cervical spondylosis from C3-C7 causing cervical stenosis (Medical Packet, Page 33).
- (6) Claimant took a buy-out from her last employer, exhausted her UCB after one-year, and had surgery on [REDACTED].
- (7) Medical report of exam done on [REDACTED], states that the claimant has done remarkably well after her C3-C7 posterior laminectomy and lateral mass fusion.
- (8) Medical report of exam done on [REDACTED], states that the claimant is 5 weeks status C3-C7 cervical laminectomy; that she is doing well; that it was explained to the claimant that it was normal to experience some pain at this point; and that the neck collar was discontinued and claimant was instructed to wear a soft collar at night for a couple of weeks (Medical Packet, Page 106).
- (9) SHRT report dated January 11, 2011, states the claimant's impairments do not meet/equal a social security listing (Medical Packet, Page 125).

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 facts above are undisputed:

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.

The objective evidence establishes the claimant took a buy-out from her employer and exhausted her UCB after 1 year in June of 2010; and that claimant had surgery on June 14, 2010, and filed for social security benefits.

In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. They must be totally or partially unemployed. They must have an approvable job separation. Also, they must meet certain legal requirements which include being physically and mentally able to work, being available for and seeking work, and filing a weekly claim for benefits on a timely basis. This Administrative Law Judge finds that claimant has not established that she has a severe impairment or combination of impairments which have lasted or will last the durational requirement of 90 days or more or have kept her from working for a period of 90 days or more.

So, the onset date of disability is in June 2010. Because the evidence of record does not establish that the claimant was unable to work for a period of exceeding 90 days, the claimant does not meet the disability criteria for SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that disability was not established.

Accordingly, SDA denial is UPHELD.

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

Date Signed: May 23, 2011

Date Mailed: May 23, 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

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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:

