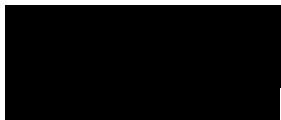


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201113920
Issue No: 2009
Case No: [REDACTED]
Hearing Date April 6, 2011
Mecosta 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 April 6, 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 as material fact:

- (1) Claimant is currently unemployed.
- (2) In December 2006, Claimant was last employed before going to prison until [REDACTED]
- (3) On October 5, 2010, the Claimant applied for MA and was denied on January 7, 2011, per BEM 260 with a hearing request on January 18, 2011.
- (4) Claimant's vocational factors are: age 48, GED, and past work experience as a skilled roofer, requiring the climbing of ladders carrying 85 pounds of supplies and skilled semi truck driver (Medical Packet, Page 261).
- (5) Claimant's disabling complaints are: cholesterol, thyroid, bipolar and depressive disorders, heart, low back, left ankle and bilateral knee pain, hearing, obsessive-compulsive disorder, anxiety disorder, schizoid personality disorder and polysubstance dependence (Medical Packet, Page 268).

- (6) Claimant admits that he has the functional capacity to do his past job as a semi-truck driver because of taking medications for his mental and physical disorder.
- (7) Psychiatric exam on [REDACTED], states the Claimant was able to understand the question; that recent memory was good and long-term fair; that insight was good; that judgment was good; that he had the capacity to make informed decisions; that he scored a current GAF of 65 (Medical Packet, Page 172-173).
- (8) Great Lakes medical evaluation on [REDACTED], states the Claimant admitted that he can sit, stand or walk for 20-30 minutes before he has pain; that he can consistently only lift 10 pounds before he has pain; that he can ambulate symmetrically without evidence of gross weakness or instability; that gait is normal; that he does not use an assistive device for ambulation; that range of motion of all joints checked is full; that grip strength is normal; that hands have full dexterity; and that he has normal range of motion of the dorsal lumbar spine and hips (Medical Packet, Pages 179-181).
- (9) Medical exam on [REDACTED], states the Claimant's condition is stable; that he has no physical limitation; that he is limited in memory, sustain comprehension, following simple instructions and social interaction (Medical Packet, Page 221-222).
- (10) SHRT report dated February 14, 2011, states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 268).

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 Claimant is not currently engaged in substantial gainful activity. Therefore, disability is not denied at this Step.

At Step 2, the objective medical evidence of record does not establish the Claimant's mental/physical impairment in combination significantly limits his ability to perform basic work activities, as defined below. To the contrary, the objective medical evidence establishes a non-severe impairment as defined below. Nor does the medical evidence establish the duration requirement 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. 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).

The medical evidence establishes that the Claimant understands and is able to answer questions; and that he had a GAF of 65. This describes a person with mild difficulty with occupational functioning and is not a severe impairment.

The medical evidence establishes that the Claimant has no physical limitations.

Therefore, disability is denied at Step 2.

At Step 3, the Claimant's impairments do not meet/equal a Social Security listing

At Step 4, the Claimant admitted that medications control his impairments; and that he has the functional capacity to do his past job as a semi-truck driver. Therefore, disability is denied at this step.

If disability had not been denied at Steps 2 and 4, it would be denied at Step 5. At Step 5 the objective medical evidence does not establish that the Claimant has no residual

functional capacity (RFC) for other work in the national economy, despite his non-severe 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).

When considering the Claimant's ability to do his past work as discussed under Step 4, he should be able to perform, at least, sedentary type work, as defined above. At this level, considering the Claimant's vocational profile (younger individual, age 48, GED, and past skilled work experience) he is not considered disabled under Vocational Rule 201.21. Therefore, disability is denied at Steps 2, 4, and 5.

Therefore, disability as defined above has not been established 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 denial is UPHELD.

/s/

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

Date Signed: May 11, 2011

Date Mailed: May 12, 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:

