

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201117266
Issue No: 2009
Case No: [REDACTED]
Hearing Date: April 27, 2011
Chippewa 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 27, 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 is currently unemployed.
- (2) In January 2009, the claimant left his job for medical reasons.
- (3) Claimant's vocational factors are: age 45, high school education or more, and past work experience as a skilled security guard at a [REDACTED] requiring constant walking, skilled [REDACTED] for 10 years assembling machines, semi-skilled work in a grocery store as a cashier, stocking shelves, manager of a deli department, and preparing food.
- (4) On October 1, 2010, claimant applied for MA, was denied on January 7, 2011, per BEM 260, and requested a hearing on January 27, 2011.

- (5) Claimant's disabling complaints are: severe peripheral neuropathy and varicose veins of both legs (Medical Packet, Page 173).
- (6) Medical exam on January 12, 2010, states the claimant is unable to work at this time due to multiple medical conditions, most notably severe peripheral neuropathy (Medical Packet, Page 15).
- (7) Medical exam on May 18, 2010, states the claimant is a well developed, well nourished male in no obvious distress; that there is large varicose vein on the medial aspect of the right leg, distal thigh, and proximal calf; that the peripheral pulses are intact; that he had no difficulty getting on and off the examination table, mild difficulty heel and toe walking, moderate difficulty squatting, and was unable to hop; that range of motion of all joints is full; that he has paresthesias and hyper sensitivity of the feet and calves (Medical Packet, Page 165 to 166).
- (8) Medical exam October 25, 2010, states, regarding right and left legs, the claimant was informed that there was no surgical solution to his problem and suggested that he wear compression hose on a religious basis (Medical Packet, Page 145).
- (9) SHRT report dated February 23, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 173).

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 evidence establishes the claimant is not engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the medical evidence of record establishes that the claimant is significantly limited in performing the basic work activities, as defined below, based on the *de minimus* standard, and for the required duration stated below.

Therefore, disability is not denied at this step.

At Step 3, the objective medical evidence does not establish that the claimant's impairments meet/equal a Social Security listing. Therefore, disability is not denied at this step.

At Step 4, the objective medical evidence establishes the claimant's inability to do any of his past work because those jobs require prolong standing and walking.

At Step 5, the objective medical evidence does not establish the claimant is without a Residual Functional Capacity (RFC) for other work in the national economy.

...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 he has no RFC for any work is not supported by the objective medical evidence of record. The medical evidence states that in January 2010, the claimant was unable to work because of his peripheral neuropathy. But, it does not say what kind of work---his past heavy work or any work.

The claimant admits that he can occasionally perform activities that fall within the definition of sedentary work, as defined above. Therefore, the claimant would be able to perform, at least, sedentary type work. At this level, considering the claimant's vocational profile (younger individual, age 45, and past work semi-skilled/skilled work experience) he is not considered disabled under Vocational Rule 201.21. Therefore, disability is denied at this step.

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 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:

