

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011208
Issue No: 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: November 24, 2010
St. Joseph 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 November 24, 2010. 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 March 26, 2010, and was denied on June 15, 2010 based on non-disability per PEM 261.
- (2) Claimant's factors are: Age 44, high school education, and past unskilled work as a motel housekeeper and unskilled Wal-Mart employee stocking shelves, waiting on customers, and cashiering.
- (3) Claimant last worked in 2005 and discontinued because of back pain.
- (4) Claimant's disabling complaints are back pain and poor walking balance.
- (5) Medical report of exam [REDACTED], states the claimant cannot work at any job (Medical Packet, Page 23).

- (6) Medical report of exam [REDACTED], states the claimant has weakness in both legs; that condition is stable; that she is limited to occasionally lifting/carrying less than 10 pounds; that she can stand and/or walk less than 2 hours in an 8 hour work day; and that she is able to use her hands-arms on a repetitive basis, except her feet/legs (Medical Packet, Page 20).
- (7) SHRT report dated [REDACTED], states the claimant's impairment(s) does not meet/equal a social security listing (Medical Packet, Page 83).

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 medical report above (Fact #5) states a conclusion that the claimant cannot work at any job.

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d)

Therefore, no evidentiary weight is given to this conclusion.

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 RFC, based on her disabling complaints above, for any work is not supported by the objective medical evidence. The medical report above does not state the claimant has any significant weakness in both legs. To the contrary, it states the claimant's condition is stable; that she can stand and/or walk less than 2 hours in an 8 hour work day; and that she can use her feet/legs, but not on a repetitive basis. When considering only the objective medical evidence of record, the claimant would be able to perform, at least, sedentary work activities as defined above.

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 benefits.

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, SDA denial is UPHELD.

/s/

William Sundquist
Administrative Law Judge
for Maura D. 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 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:

