

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-23376
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: June 15, 2011
Kent 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 June 15, 2011.

Medical reports (Claimant Exhibit A) submitted after the hearing for a second SHRT review delayed the D&O below.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

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 has not worked since November 22, 2006.
2. On November 22, 2006, claimant was fired from his last job and became an UCB recipient exhausting benefits in November 2010.
3. Claimant's vocational factors are: age 38, 12th grade education, and past work experience as a semi-skilled stocker of shelves and a cashier.
4. On August 20, 2010, the claimant applied for Medicaid/SDA, and was denied on September 28, 2010 per BEM 260/261, while still a UCB recipient; and requested a hearing on December 14, 2010.
5. Claimant alleges disability due to back/neck pain, and asthma.

6. Medical assessment on April 7, 2010 states the claimant can sit 20 minutes without interruption, stand ten minutes without interruption, and walk three tenths of a mile; that he can sit for two hours, stand for one hour and walk eight thirds of a mile within an eight-hour work day; that he should have the option every ten minutes to change physical position; that he is capable of walking effectively with no assistive device which is required for ambulation; that he can occasionally lift and carry 20 pounds; that he can occasionally bend forward from the waist, reach above shoulder level, squat, kneel, climb stairs; that he can use his hands on a frequent basis; that he can occasionally do push/pull movements with his extremities; and that he is able to use both feet and legs for repetitive movements (Claimant Exhibit, pages 1 to 3).
7. Medical exam on August 17, 2010 states the claimant's condition is deteriorating; that he is limited to lifting/carrying ten pounds; that he can stand and/or walk less than two hours in an eight-hour work day; and that he can use his left upper extremity on a repetitive basis (Medical Packet, page 38)..
8. Medical exam on May 9, 2011 states that the claimant has the ability to sit, stand, bend, stoop, carry, push, pull, close, tie shoes, dress, undress, dial telephone, open doors, make a fist, pick up coin, pick up pencil, write, get on and off examining table, climb stairs; that he is able to walk on heels and toes, and tandem walk; that gait is stable and within normal limits; that he does not need assistive support for walking; and that overall strength is 5/5 (SHRT, page 60).
9. Medical exam on May 9, 2011 states that the claimant has no evidence of joint laxity, crepitus, or effusion; that grip strength remains intact; that dexterity is unimpaired; that claimant could pick up a coin, button clothing, and open the door and had no difficulty getting off examination table, no difficulty heel and toe walking; that he was able to squat two-fifths of a distance, and had no difficulty walking; that range of motion was normal for the dorsal lumbar spine, cervical lumbar spine, knees, and hips, that cranial nerves are intact; that motor strength was normal and tone appeared normal; that reflexes are intact and symmetrical; that Romberg testing is negative; that straight leg raising was accomplished to 30 degrees, on right and 45 degrees on the left; and that patient walks with a mid left-sided limp without the use of an assistive device (SHRT report, pages 62 to 64).
10. SHRT report dated July 12, 2011 states claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 66).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Facts above are undisputed.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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 of record establishes that the claimant is not engaged in substantial gainful activity since November 22, 2006. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record does not establish that the claimant is significantly limited in performing basic physical work activities, as defined below, for the required duration stated below of one **continuous** year.

...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).

In addition, claimant did receive UCB before, during and after application. In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. They must be totally or partially employed. 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 12 months or more or have kept her from working for a period of 12 months or more. Claimant was an UCB recipient before, on and after her Medicaid/SDA application.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. PEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

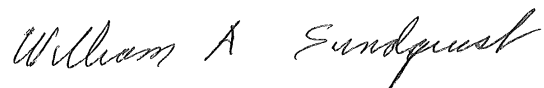
There is no medical evidence of record regarding any work limitation. Therefore, disability is denied at Step 2.

Therefore, the claimant has not established disability, as defined above, based on 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, Medicaid/SDA denial is UPHELD.



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

Date Signed: November 7, 2011

Date Mailed: November 7, 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 mailing 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/tg

cc:

