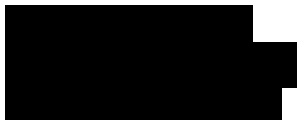


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201124203
Issue No: 2009
Case No: [REDACTED]
Hearing Date: May 3, 2011
Saginaw 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 in-person hearing was held on May 3, 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 2006, the claimant had his last job; currently he is attending college.
- (3) Claimant's vocational factors are: age 29, high school education, and past work experience as an unskilled factory line worker separating papers from cardboard, requiring him to lift up to 40-50 pounds as a clean up job, semi-skilled sanitation worker placing garbage in the back of the truck lifting/carrying up to 20 pounds, and unskilled tree service work, cleaning up yards after hurricanes.
- (4) On October 22, 2010, the claimant applied for MA, was denied on December 16, 2010, per BEM 260, and requested a hearing on March 2, 2011.

- (5) Claimant's disabling complaints are: gunshot wound to thighs and stomach on September 14, 2010 (Medical Packet, page 59).
- (6) Medical exam on [REDACTED] states the claimant was diagnosed with gunshot wound to the abdomen and bilateral thighs (Medical Packet, page 14).
- (7) Medical exam on [REDACTED], states the claimant, regarding the abdomen, has no signs of any guarding, rebound, or rigidity; that there is a small wound is on the anterior surface of his abdomen just inferior and to the lateral portion of the left lower abdomen; that bleeding is well controlled; that, regarding his back, he has no tenderness along his back; that there are no signs of any tenderness along his cervical spinous process and no signs of any contusions or bruises (Medical Packet, page13).
- (8) SHRT report dated March 30, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 59).

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

At Step 2, the objective medical evidence of record establishes that the claimant was significantly limited in performing basic work activities based on the *de minimus* standard, but not for the required duration stated below. At the hearing, the claimant admitted that he did not have any medical reports stating that he was unable to perform basic work activities, sedentary work activities, and his past work. He admits that his school activities are sedentary type activities. Therefore, disability is denied at this step.

...[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.

At Step 3, the objective medical evidence does not establish that the claimant's impairments meet/equal a Social Security listing.

At Step 4, the objective medical evidence does not establish the claimant's inability to do any of his past work, despite his past severe impairment, as already discussed under Step 2 above.

Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish that 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 complaints above that he has no RFC for any work is not supported by the objective medical evidence of record. His medical limitations fall within the definition of sedentary type work, as defined above. Therefore, the claimant would be able to perform, at least, sedentary work. At this level, considering the claimant's vocational profile (younger individual, age 29, high school graduate, and past unskilled/semi-skilled work experience, he is not considered disabled under Vocational Rules 201.27 and 201.28. Therefore, disability is denied at Steps 2, 4, and 5.

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, MA denial is UPHELD.

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

Date Signed: May 18, 2011

Date Mailed: May 19, 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:

