

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-29465
Issue No. 2009
Case No. [REDACTED]
Hearing Date: October 25, 2011
St. Clair 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, an in person hearing was held on October 25, 2011.

Medical reports (Claimant Exhibit A) submitted after the hearing for a second SHRT review delayed the D&O below. Continuance of the hearing for the claimant to obtain additional medical reports was denied for lack of good cause per PEM 260.

ISSUE

Did claimant, on date of application, establish a severe mental/physical impairment that had lasted or was expected to last for a one year **continuous** duration?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In April 2007, claimant ended his last employment due to a layoff and became an unemployment compensation benefits recipient which expired in April 2009.
2. In April 4, 2010, claimant alleges onset of disability due to degenerative joint disease, degenerative disc disease, coronary artery disease, hypertension, Dyslipidemia, ventricular tachycardia, mood disorder, personality disorder and polysubstance abuse (Medical Packet, pages 90 and 116).
3. Medical exam on December 29, 2010 states the claimant is alert, oriented, and in no apparent distress (Medical Packet, page 45).

4. On January 4, 2011, the claimant applied for Medicaid (and December retro); he was age 44 with a high school education, and work experience as an unskilled laborer in a plastics parts factory, and a concrete plant worker, and summer skilled work as a line leader in a factory, and driver for dump truck clean-up operations.
5. On March 15, 2011, claimant's application was denied per BEM 260 with a hearing request on June 11, 2011.
6. Medical exam on August 11, 2011 states the claimant's GAF score of 58 (Medical Packet, page 92).
7. Medical exam on August 10, 2011 states the claimant is alert, and oriented x3 (Claimant Exhibit A, page 4).
8. Medical exam on August 10, 2011 states the claimant has a regular cardiovascular rate and rhythm; and that he has clear breathing sounds bilaterally, with no crackles or wheezing (Claimant Exhibit A, page 7) .

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

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.

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.

The claimant has the burden of proof to establish disability by the preponderance of the evidence in accordance with the five step process below. 20 CFR 416.912(a).

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, disability is not denied. The evidence of record establishes that the claimant was not engaged in substantial gainful work on date of application, nor currently.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the claimant's significant inability to perform basic mental/physical work activities, as defined below, for a one year **continuous** duration, as defined below.

SEVERE/NONSEVERE IMPAIRMENT

...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).

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 claimant's testimony regarding his disabling impairments, alone, is insufficient evidence to prove disability. It must be supported by competent, material and substantial evidence on the whole record.

The medical evidence of record shows that the claimant had a GAF score of 58 seven months after his application period. Scores of 50 and lower are considered severe mental impairments and difficulty with job-functioning. And 51 and above a nonsevere impairment with job-functioning. DSM-IV (4th Edition-Revised).

The medical reports of record are mostly examination, diagnostic and treatment reports. They do not provide medical assessments of claimant's basic work limitations/restrictions in order to determine whether he has a severe impairment, as defined above. Do the medically diagnosed impairments significantly impair claimant's ability to perform basic work activities, as defined above? If not, then, the claimant has established a non-severe impairment only, as defined above, instead of a severe impairment, as defined above. Said in another way, do the claimant's diagnosed impairments impair him slightly, mildly, moderately (nonsevere) or severely?

DURATION OF IMPAIRMENTS

You cannot be determined disabled without medically establishing the duration requirement, as defined below.

...[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.

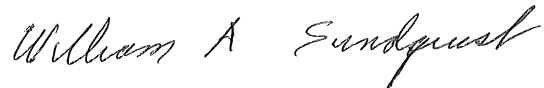
The medical evidence of record, on date of application, does not establish a severe mental/physical impairment that has lasted or was expected to last for a one year **continuous** duration.

Therefore, disability has not been established at Step 2 as defined above, by the 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 denial is UPHELD.



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

Date Signed: January 3, 2012

Date Mailed: January 4, 2012

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

2011-29465/WAS

cc:

