

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

IN THE MATTER OF:



Reg. No: 20113725
Issue No: 2009;4031
Case No: [REDACTED]
Hearing Date: February 24, 2011
Oakland 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 February 24, 2011. The claimant appeared and testified.

Medical reports (Claimant Exhibit A) submitted at the hearing for SHRT review delayed the Decision and Order below.

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 as material fact:

- (1) Claimant is currently unemployed.
- (2) In August 2008, the claimant ended his last job for medical reasons.
- (3) Claimant's vocational factors are: age 39, high school education, and past work experience as an unskilled restaurant dishwasher and janitor; semi-skilled electronic salesperson; and skilled computer troubleshooter.

- (4) On August 6, 2010, the claimant applied for MA/SDA, was denied on September 29, 2010, per BEM 260/261, and requested a hearing on October 12, 2010.
- (5) Claimant alleges disability due to bipolar disorder (Medical Packet, p. 78)
- (6) Psychiatric exam on [REDACTED], states the claimant's GAF score of 55 (Medical Packet, p. 77).
- (7) Medical exam on [REDACTED] states the claimant is limited in sustained concentration and social interactions (Medical Packet, p. 69).
- (8) Psychological exam on [REDACTED], states the claimant's current GAF score of 45 (Medical Packet, p. 5).
- (9) Medical residual functional capacity (RFC) assessment by a psychiatrist/psychologist on [REDACTED], states the claimant is not significantly limited in ability to remember locations and work-like procedures, understanding and remembering one or two-step instructions, carrying out simple one of two-step instructions, asking simple questions, and being aware of normal hazards and taking appropriate precautions; that he is moderately limited in ability to understand and remember detailed instructions, carry out detailed instructions, perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, sustain ordinary routine without supervision, make simple work-related decisions, complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, interact appropriate with the general public, get along with co-workers or peers without distracting them or exhibiting behavioral extremes, and respond appropriately to change in the work setting (Medical Packet, pgs. 8 and 9).
- (10) Mental RFC questionnaire by an MD on [REDACTED] states the claimant is seriously limited, but not precluded from understanding and remembering very short and simple instructions, carrying out very short and simple instructions, making simple work-related decisions, asking simple questions or requesting assistance, being aware of normal hazards and taking appropriate precautions, understanding and remembering detailed instructions, and carrying out detailed instructions (Claimant Exhibit A, pgs. 3 and 4).
- (11) SHRT reported dated November 18, 2010, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, p. 78).

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 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 that 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 does not establish that the claimant is significantly limited in performing basic mental work activities as defined below, for the required duration stated below.

...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 [REDACTED], the claimant's GAF score was 55 determined by a psychiatrist and in [REDACTED], it was 45. Scores under 51 are considered persons with severe occupational functioning problems. And 51 and higher, a non-severe occupational problem.

In [REDACTED] the mental RFC assessment by the psychiatrist/psychologist shows that the claimant was not limited in understanding, remembering, and carrying out simple job instructions, which is the DHS test defined above.

In [REDACTED], the mental RFC assessment by an MD states the claimant is severely limited in the basic mental activities stated above.

The evidence in this case does not establish a severe mental impairment on a regular and continuing basis for one year.

Therefore, disability is denied at this step.

At Step 3, the objective medical evidence does not establish 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 intermittent severe mental impairment stated above. Therefore, disability is denied at Steps 2 & 4.

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. BEM, Item 261, page 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.

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/SDA denial is UPHELD.

/s/

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

Date Signed: June 20, 2011

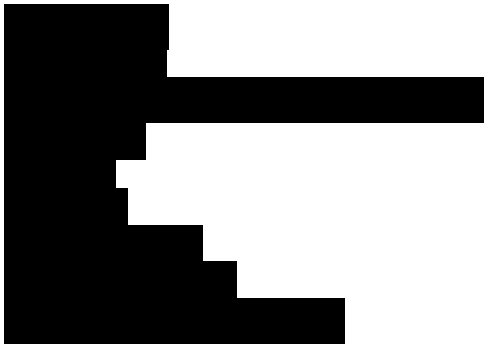
Date Mailed: June 20, 2011

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:

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