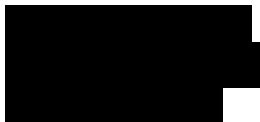


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20114563
Issue No: 2009
Case No: [REDACTED]
Hearing Date: March 2, 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 March 2, 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) On October 15, 2008, the Claimant was laid off from his job and, thereafter, became a recipient of Unemployment Compensation Benefits (UCB).
- (3) Claimant's vocational factors are: age 42, high school education with some college education, and work experience as a chef manager for the [REDACTED], managing 35 employees for 15 years.
- (4) On July 26, 2010, the Claimant applied for Medicaid, was denied on October 25, 2010, and requested a hearing on October 27, 2010.
- (5) Claimant's disabling physical complaints are: acute colitis and sclerosing cholangitis.

- (6) In January 2011, the Claimant exhausted her UCB.
- (7) Medical exam on [REDACTED], states the Claimant is well-developed, well nourished, and in no acute distress; that he is tired and fatigued; that he can only walk about half a block; that he cannot squat; that he has normal gait and stance; that his grip was satisfactory; that he was able to get on and off the examination table with no problems; that he managed to tandem walk; that cranial nerves were intact; that sensory functions were intact to sharp and dull gross testing; that motor exam reveals fair muscle tone without flaccidity, spasticity or paralysis; that, regarding his osteoarthritis and spinal disorder, there were no circulatory deficits, no atrophy; that his gait was normal; that he ambulated well without an ambulation aid; and that he had difficulty squatting.
- (8) In summary, the report stated that the Claimant will have difficulty working 8 hours per day secondary to the chronic fatigue from his liver disease; that he is unable to walk more than half a block; that he is unable to stand for more than 10 minutes; that he can sit for about 15 minutes; that there is limitation on pushing/pulling, and lifting; that he should be able to use bilateral hands for fine manipulations, but again it is the fatigue factor which usually limits his activities; that he is able to climb stairs; and that squatting is limited (Medical Packet, Pages 43 and 44).
- (9) Medical exam on [REDACTED], states that Claimant is able to walk on heels and toes; that gait was stable and within normal limits; that he has no need for a walking aid; and that his grip strength is 5/5 (Medical Packet, Page 48).
- (10) Medical exam on [REDACTED], regarding post orthotopic liver transplant from 1998, states overall the Claimant is doing well; that he will be seen again in a year; and that labs will be taken every 3 months as he is doing well (Medical Packet, Page 35).
- (11) SHRT report dated November 22, 2010, states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 90).

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

At Step 2, the medical evidence of record establishes that the Claimant is significantly limited in the performance of basic work activities, as defined 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).

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).

Therefore, disability is not denied at this step.

At Step 3, the Claimant's severe physical impairment does not meet/equal a Social Security listing.

At Step 4, the objective medical evidence establishes the Claimant's inability to do his past work as a cook. This requires prolonged standing for which he is significantly impaired. Therefore, disability is not denied at this step.

At Step 5, the burden of proof shifts to the DHS to establish that the Claimant has a residual functional capacity 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.

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

The SHRT report states a claim that the Claimant retains the capacity to perform a wide range of light work as defined above. The objective medical evidence of record does not establish the Claimant's functional capacity for light work. Therefore, disability is not denied at Steps 1, 2, 4, and 5.

Therefore, disability, as defined above, has been established by the necessary competent, material, and substantial medical 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 medically established.

Accordingly, MA denial is REVERSED, and approval of the application within 10 work days is ORDERED.

/s/

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

Date Signed: May 9, 2011

Date Mailed: May 9, 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.

20114563/WAS

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:

