

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

IN THE MATTER OF:



Reg. No: 201149208
Issue No: 2009
Case No: [REDACTED]
Hearing Date: November 22, 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, a telephone hearing was held on Tuesday, November 22, 2011. Claimant appeared and provided testimony on his behalf.

Claimant's requested continuance of the hearing to obtain additional medical reports was denied based on lack of good cause. PAM 600.

ISSUE

Was disability, as defined below, 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's interim application MA-P on July 1, 2011 under the ex parte review per BEM 110 based on his child turning 18 years old and graduating from school; was denied on August 9, 2011 per BEM 260 with a requested hearing on August 16, 2011. He alleges disability based on multiple medically diagnosed mental/physical disorders.
2. Claimant was age 49, with a high school plus education, and past work experience as a semi-skilled national guardsman, general handy-man and personal care in a home for the aged.
3. In 1997, Claimant ended his last employment.

4. Medical exam on November 6, 2010, states the Claimant's pelvis, right hip, right shoulder, CT Scan of the brain, are normal; that there is some loss of some normal select lordosis; and that there is degenerative disc disease and hypertrophic spondylosis at C5-C6 and C6-C7 (medical packet, pages 8-11).
5. Medical exam on March 7, 2011, states the claimant is well-developed, well-nourished and appears in no acute distress; that the Claimant has a full range of motion in the shoulder joints bilateral; that cranial nerves II-XII are intact; that strength is 5/5 in all extremities; and that gait was normal (medical packet, page 3).
6. Medical exam on May 18, 2011, states the Claimant's HEENT and respiratory are ok; that musculoskeletally he requires the use of a cane or brace; and that Claimant's condition is deteriorating (medical packet, page 40).
7. SHRT report dated October 7, 2011, states the Claimant's impairments do not meet/equal a social security listing (medical packet, page 45).

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 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).

Step 1 is decided in Claimant's favor based on his past/current unemployment.

Step 2 is not decided in the Claimant's favor. The medical evidence of record does not establish that Claimant is significantly limited in performing basic mental/physical work activities, as defined below, for the required duration of one continuous year, as stated below.

Severe/Non-Severe 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).

...[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).

The Claimant has multiple diagnosed medical disorders. That alone is not enough to establish a severe impairment. Is the Claimant's slightly, mildly, moderately or severely impaired? Said in another way, does Claimant have a combination of non-severe or severe impairment(s), as defined above? Most of the reports of record are examination, diagnostic and treatment reports. These reports do not provide medical assessments of the Claimant's mental/physical work limitations/restrictions relative to performing basic work, as defined above.

The medical evidence of record must establish a severe impairment and meet the duration requirement before Claimant can be determined disabled. Therefore, disability is denied at Step 2.

Therefore, disability, as defined above, has not been established 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**.

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

Date Signed: May 11, 2012

Date Mailed: May 11, 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/tb

cc:

