

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-50346
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date:
November 17, 2011
Genesee County DHS (05)

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on November 17, 2011. Claimant personally appeared and testified.

ISSUE

Whether the Department of Human Services (Department) properly denied Claimant's application for Medical Assistance (MA-P), Retro-Medicaid and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

- (1) On [REDACTED] Claimant filed an application for MA, Retro-MA and SDA benefits alleging disability.
- (2) On [REDACTED] the Medical Review Team (MRT) denied Claimant's application for SDA stating Claimant's physical impairment will not prevent employment for 90 days or more. MRT denied Claimant's MA application based on insufficient evidence that Claimant had a severe impairment preventing him from employment for at least 12 months. (Department Exhibit 1, pp. 1-2).
- (3) On [REDACTED] the Department sent Claimant notice that his application was denied.
- (4) On [REDACTED] the Claimant filed a request for a hearing to contest the Department's negative action.

- (5) On [REDACTED] the State Hearing Review Team (SHRT) again denied Claimant's application stating Claimant's impairments do not meet/equal the intent or severity of a Social Security Listing and the Claimant retains the residual functional capacity to perform a wide range of light work and unskilled work. (Department Exhibit 2 pp. 1, 2).
- (6) Claimant alleges he is disabled due to diabetes, anxiety, hypertension, and bipolar disorder.
- (7) From [REDACTED] the Claimant has been incarcerated for armed robbery. Prior to being incarcerated, the Claimant worked as a welder, security guard and custodian. (Department Exhibit 1, pp. 5).
- (8) Claimant is a [REDACTED] year old man whose birthday is [REDACTED]. Claimant is 5'10" tall and weighs 195 lbs. Claimant has a high school diploma and has taken one year of classes at Jordan College. While in prison, Claimant became certified in culinary arts, custodial maintenance and legal research. (Department Exhibit 1, p. 103).
- (9) In [REDACTED], the Claimant had a percutaneous transluminal coronary angioplasty with two stent placement. The Claimant reported to be generally chest pain free afterwards. (Department Exhibit 1, p. 187).
- (10) In [REDACTED] the Claimant had a left knee meniscal repair. (Department Exhibit 1, p. 188).
- (11) On [REDACTED] conducted a nondiagnostic study of Claimant's heart. The test revealed a maximum heart rate that was well below 85% of the patient's predicted maximum. [REDACTED] found the Claimant had left ventricular hypertrophy with a borderline ejection fraction and hypokinesia to part of the septum. (Department Exhibit 1, p. 213, 214).
- (12) On [REDACTED] the Claimant presented to [REDACTED] with chest discomfort that was becoming more severe. Myocardial infarction was ruled out. A cardiac catheterization was administered which revealed 100% circumflex stenosis, 80% LAD and multiple RCA lesions. An echocardiogram showed an ejection fraction of 54%. (Department Exhibit 1, p. 31).
- (13) On [REDACTED] the Claimant underwent a coronary artery bypass grafting x3 utilizing the left internal mammary artery bypass to the left anterior descending coronary artery and individual reverse saphenous vein graft to the right coronary artery and obtuse marginals as well as an endoscopic vein harvesting from the left lower extremity. (Department Exhibit 1, p. 39).

- (14) On [REDACTED] the Claimant underwent a Complete Pulmonary Function Test at [REDACTED]. The test showed a normal baseline spirometry with no obstruction or restriction. (Department Exhibit 1, p. 29).
- (15) On [REDACTED] [REDACTED] examined the Claimant. [REDACTED] found the Claimant's lungs to be clear to auscultation bilaterally with no wheezing, no crackles and no accessory muscle use. [REDACTED] found the Claimant's heart to be of regular rate and rhythm with no distant heart sounds and no murmurs. Claimant presented to [REDACTED] as alert and oriented x3 with no sensory deficits and cranial nerves II through XII intact. (Department Exhibit 1, p. 36, 37).
- (16) On [REDACTED] [REDACTED] examined the Claimant. [REDACTED] found the Claimant's post-operative course was relatively uncomplicated. [REDACTED] found the Claimant's chest to be clear to auscultation bilaterally with regular cardiac rate and rhythm without murmur gallop or rub. The Claimant told [REDACTED] he had mild persistent incisional tenderness in the chest. The Claimant denied any substernal chest pain suggestive of angina or dyspnea on exertion. (Department Exhibit 1, pp. 164, 165).
- (17) On [REDACTED] the Claimant participated in an orientation at [REDACTED]. (Department Exhibit 1, p. 97).
- (18) On [REDACTED] the Claimant participated in a session at [REDACTED]. The session was about assessment and development of goals. During the session, the Claimant indicated his heart disease, high blood pressure and diabetes were controlled by medications. The Claimant also indicated during the session, he has the ability to work with his hands; welding; run farm tools; machine operation; and food services. (Department Exhibit 1, p. 103).
- (19) On [REDACTED] [REDACTED] processed an intake evaluation of the Claimant. At the time of intake, the Claimant presented to [REDACTED] as mentally stable. During the intake, the Claimant denied any history of mental health and reported he did not have any mental health concerns. The Claimant indicated he did not have any current or past history of suicidal or homicidal ideations. (Department Exhibit 1, pp. 141-162).
- (20) On [REDACTED] the Claimant attended a one-on-one session with [REDACTED]. The Claimant presented to [REDACTED] with appropriate affect and mood, and displayed no symptoms of distress, anxiety, or depression. [REDACTED] found the Claimant had ASAM Dimensions 3, 4, 5 and 6 of medium. (Department Exhibit 1, p. 110).

- (21) On [REDACTED] the Claimant attended an individual session with [REDACTED]. The Claimant presented to [REDACTED] with appropriate affect and mood and displayed no symptoms of distress, anxiety or depression. During the session, the Claimant clearly articulated his plan for reentry and how criminal activity can hinder him. (Department Exhibit 1, p. 123).
- (22) On [REDACTED] the Claimant attended an individual session with Mr. [REDACTED]. The Claimant presented to [REDACTED] with appropriate affect and mood and displayed no symptoms of distress, anxiety or depression. [REDACTED] found the Claimant to be making good progress in individual sessions. (Department Exhibit 1, p. 133).
- (23) On [REDACTED] [REDACTED] took images of the Claimant's chest. The images demonstrated a normal heart and clear lungs with no acute infiltrates. The pleural spaces appeared normal and the pulmonary vasculature was normal. (Department Exhibit 1, p. 25).
- (24) On [REDACTED] the Claimant underwent some laboratory testing. The testing revealed the Claimant had a favorable cholesterol/HDL ratio. The ratio indicated a reduced risk of coronary artery disease. (Department Exhibit 1, p. 26).
- (25) On or around [REDACTED] the Claimant saw [REDACTED] to have the DHS-49 (Medical Examination Report) filled out. On or around [REDACTED] [REDACTED] found the Claimant to be stable and able to meet his needs in the home without assistance. (Department Exhibit 1, pp. 54, 55).
- (26) On [REDACTED] [REDACTED] evaluated the Claimant. The Claimant presented to [REDACTED] with good hygiene and grooming with intact gross motor functioning and no overt physical discomfort. Claimant appeared oriented and presented his ideas in a logical and coherent fashion. The Claimant showed signs of depression with some tearfulness and suicidal feelings. The Claimant told [REDACTED] he attempted to hang himself shortly after he was sent to prison in 1987 or 1988. The Claimant complained of hearing voices and seeing images of deceased relatives. The Claimant told [REDACTED] his last alcohol use was 20 years ago and his last use of street drugs was also some 20 years ago. (Department Exhibit 1, p. 3-5).
- (27) On [REDACTED] [REDACTED] examined the Claimant. The Claimant presented to [REDACTED] with a pulse of 60 and blood pressure of 178/127. The Claimant was found to be moderately obese with bilateral bronchovesicular breath sounds with no rales, rhonchi or wheezes and a heart that was normal in rate and rhythm with no murmurs or gallops. [REDACTED] did not find any motor or sensory deficit and found the Claimant's deep tendon reflexes were reduced in the upper and lower extremities. The Claimant's joints were all normal with full range of movement except for the left hip joint which was

tender to manipulation and also the left knee joint with reduced movements. [REDACTED] found the Claimant's fine and gross dexterity in both upper extremities as well as grip with both hands was normal. (Department Exhibit 2, pp. 5, 6).

- (28) On [REDACTED] reviewed bilateral images of the Claimant's knees. [REDACTED] concluded the Claimant had mild degenerative arthritic changes in his right knee joint and mild to moderate degree of degenerative arthritic changes in the left knee joint. (Department Exhibit 2, p. 11).
- (29) Claimant has applied for Social Security disability and has been denied. At the time of the hearing, the Claimant was in the appeal process.

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 Reference Tables Manual (RFT).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...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, that being a five-step sequential evaluation process for determining whether an individual is disabled. (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If it is determined that the Claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the Administrative Law Judge must determine whether the Claimant is engaging in substantial gainful activity. (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities. (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized. (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from

employment or self-employment above a specific level set out in the regulations, it is presumed that he/she has demonstrated the ability to engage in SGA. (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he/she is not disabled regardless of how severe his/her physical or mental impairments are and regardless of his/her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the Claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe." (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the Claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the Claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment. 20 CFR 416.929(a).

Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms). 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are 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).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

At step three, the Administrative Law Judge must determine whether the Claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1. (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the Claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement, (20 CFR 404.1509 and 416.909), the Claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the Claimant's residual functional capacity. (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the Claimant's impairments, including impairments that are not severe, must be considered. (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the Claimant has the residual functional capacity to perform the requirements of his/her past relevant work. (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the Claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the

Claimant to learn to do the job and have been SG A. (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the Claimant has the residual functional capacity to do his/her past relevant work, the Claimant is not disabled. If the Claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the Claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the Claimant is able to do other work, he/she is not disabled. If the Claimant is not able to do other work and meets the duration requirements, he/she is disabled.

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

At Step 1, I find the Claimant is not engaged in substantial gainful activity as he testified he has not worked since the [REDACTED]. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, I find the medical records and the Claimant's testimony at the hearing established the existence of diabetes, coronary artery bypass grafting and mild degenerative arthritis of the knees. I do not find the Claimant's impairments are "severe" within the meaning of the Regulations, because they do not significantly limit the Claimant's ability to perform basic work activities.

At Step 3, I find the Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

At Step 4, I find the objective medical evidence of record is not sufficient to establish that Claimant is prevented from performing the duties required from his past relevant employment. Accordingly, Claimant is disqualified from receiving disability at Step 4.

Although I have found the Claimant disqualified from receiving disability at Steps 2, 3 and 4, I will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform other jobs.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and 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).

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).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 5, I find the objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least light work duties. The record indicates the Claimant stopped working due to incarceration, rather than the alleged impairments. In addition, the medical records indicate the Claimant can participate in daily activities which are not limited to the extent one would expect, given the complaints of disabling symptoms and limitations. The medical documentation reflects the Claimant is able to take care of his own basic living needs (cleaning, cooking, and showering). Furthermore, while incarcerated the Claimant became certified in culinary arts, custodial maintenance and legal research.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Although Claimant has cited medical problems, the clinical documentation submitted by Claimant is not sufficient to establish a finding that Claimant is disabled. There is no objective medical evidence to substantiate Claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disabled. Under the Medical-Vocational guidelines, an individual age [REDACTED] (Claimant is [REDACTED] years of age), with high school graduate or more (Claimant completed high school) and an unskilled or limited history who can perform light work is not considered disabled pursuant to Medical-Vocational Rule 202.13. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The Department's Bridges 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, p. 1. Because 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

2011-50346/CA

Claimant does not meet the disability criteria for State Disability Assistance benefits either

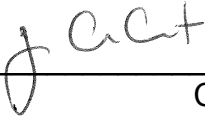
The department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance and/or State Disability Assistance.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, that the Department has appropriately established on the record that it was acting in compliance with Department policy when it denied Claimant's application for Medical Assistance and State Disability Assistance.

Accordingly, the department's decision is AFFIRMED.

It is SO ORDERED.



Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: December 7, 2011

Date Mailed: December 7, 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 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:

2011-50346/CA

- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

CAA/cl

cc:

