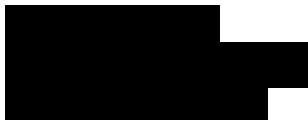


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20117792
Issue No: 2009;4031
Case No: [REDACTED]
Hearing Date: February 9, 2011
Monroe 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 9, 2011. The claimant appeared and testified.

Medical Reports (claimant's Exhibit A) submitted at the hearing 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 March 2009, the Claimant quit his last job to attend nursing school.
- (3) Claimant's vocational factors are: age 26, 2 years of college, and past work experience as a semi-skilled sales person at Best Buy and assistant manager and salesperson in a retail clothing store, and server/bartender at Red Lobster.

- (4) On July 16, 2010, the claimant applied for MA/SDA, was denied on August 24, 2010, per BEM 260/261, and requested a hearing on November 17, 2010.
- (5) Claimant's disabling complaints are: right hand injury during knife laceration on May 5, 2010, limiting the use of his second finger movement and thumb apposition; numbness to first and second finger; open wound and skin graft to right arm.
- (6) Medical exam on [REDACTED], states the claimant has no sensation to the right upper extremity below the antecubital fossa; that there is no flexion extension to the right wrist, first, second, third, thumb, and index fingers; that there is weak flexion and extension to the middle, ring, and pinky fingers; that there is complete absence of sensation to the right upper extremity below the antecubital fossa; and that he had right brachial artery laceration vascular surgery (Medical Packet, page 22).
- (7) Medical exam on [REDACTED], states the claimant's laceration of right upper extremity, skin graft closure and median nerve injury; that the condition is stable and remedialable by treatment; that he is unable to lift/carry any weight; that he can stand 1 hour, walk 1 hour, and sit 4 hours out of an 8 hour work day; that an assistive support is needed for arm; and that he can use his extremities repetitively, except his upper right extremity (Medical Packet, pages 3 and 4).
- (8) Medical exam on [REDACTED], states the claimant is able to work at any job, but cannot use his right arm (Medical Packet, page 15).
- (9) Medical exam on [REDACTED], states the claimant is limited to lifting/carrying frequently up to 5 pounds; that he is not significantly limited in pushing/pulling and reaching activities; that he is moderately limited in bending; and stated that he is unemployable (claimant Exhibit A, page 4).
- (10) SHRT reported dated December 17, 2010, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 39).

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 establishes that the claimant is significantly limited in performing basic physical work activities, as defined below, based on the *de minimus* standard, but not for the required duration stated below.

Therefore, disability is denied at this step.

At Step 3, the objective medical evidence does not establish that 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 severe physical impairment. His past work as an assistant manager at a retail clothing store, and a salesperson for Best Buy would fall within his medical limitations. Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish that the claimant is without a Residual Functional Capacity (RFC) 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.

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).

The objective medical evidence of record states a medical opinion in [REDACTED], that the claimant was able to work at any job, limited to no use of the right arm. Then in [REDACTED]

██████, the medical opinion is that the claimant can frequently lift/carry up to 5 pounds, but that he was unemployable.

The medical evidence in ██████████ and ██████████ is inconsistent.

Statements by physicians that you are unable to work do not mean that you will be determined disabled. The medical findings and other evidence must support the conclusions by the physicians. 20 CFR 416.927.

The statement that the claimant is unemployable is ambiguous. What employment? Past employment or any employment in the national economy? The claimant has, at least, the ability to lift/carry up to 5 pounds.

Claimant's disabling complaints above that he has no RFC for any work is not supported by the objective medical evidence of record. His medical limitations fall within the definition of sedentary work activities, as defined above. Therefore, the claimant would be able to perform, at least, sedentary work. At this level, considering the claimant's vocational profile (younger individual, age 26, high school education or more, and past semi-skilled work experience) he is not considered disabled under Vocational Rule 201.28. Therefore, disability is denied at this step.

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, carrying for a disabled person or age 65 or older. BEM, Item 61, 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 UPHOLD.

/s

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

Date Signed: June 3, 2011

Date Mailed: June 6, 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:

