

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

IN THE MATTER OF:
Issue

[REDACTED]

Reg. No.: 2011-7797
No.: 2009
Case No.: [REDACTED]
Hearing Date: April 21, 2011
DHS County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in-person hearing was held on April 21, 2011. The Claimant appeared and testified along with her authorized hearings representative MARS through [REDACTED] [REDACTED] Medical Contact Worker, appeared on behalf of the Department of Human Services (Department).

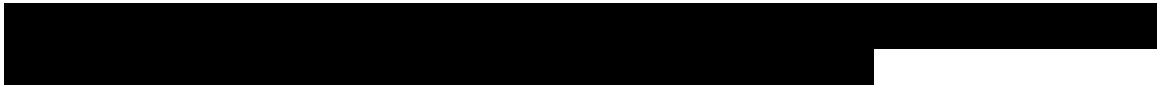
ISSUE

Was the Department correct in denying Claimant's MA application?

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 applied for MA-P on August 12, 2010.
2. The Medical Review Team denied the applications on August 20, 2010.
3. Claimant filed a request for hearing on November 15, 2010 regarding the MA denial.
4. A hearing was held on April 21, 2011.
5. On December 10, 2010 the State Hearing Review Team denied the application because the Claimant's conditions have improved with treatment and are expected to continue to improve and not prevent all work for 12 months from the date of onset or from the date of surgery. The Claimant retains the capacity to perform at least light work.

6. Claimant is 5'10" tall and weighs 155 pounds.
7. Claimant is 36 years of age.
8. Claimant's impairments have been medically diagnosed as injuries sustained for multiple gun shot wounds to the right thorax abdomen and right arm.
9. Claimant has the following symptoms: pain, soreness, and numbness in upper right arm, wrist drop in right wrist, brachial nerve injury.
11. Claimant completed a GED.
11. Claimant is able to read and perform basic math skills. Claimant is not able to write because of the injury to his right hand.
12. Claimant is not currently working.
13. Claimant last worked as a landscaper. Claimant previously worked at a car parts factory.
14. Claimant lives with his mother.
15. Claimant testified that he cannot perform household chores.
16. The Claimant's limitations is expected to last for 12 months or more.
17. Claimant takes the following prescribed medications:
 - a. Vicodin 750 mg.
 - b. Flexeril
18. Claimant testified to the following physical limitations:
 - i. Sitting: 30 minutes to 1 hour
 - ii. Standing: 20 minutes
 - iii. Walking: 30 yards
 - iv. Bend/stoop: no limitations
 - v. Lifting: 15 lbs.
 - vi. Grip/grasp: none with right hand
19. Claimant is right handed.
20. 
21. Claimant has been prescribed physical therapy for his right hand and arm but he has no insurance and cannot afford to pay for physical therapy.
22. Claimant has no use of his right hand. Claimant cannot wiggle his fingers and needs help tying his shoes.

23. Medical records from a [REDACTED] hospital visit gives the following impression
[REDACTED]

CONCLUSIONS OF LAW

The Medical Assistance (MA-P) 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 administers the MA-P 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 Bridges Reference Manual (BRM).

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.

(b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P 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. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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 symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

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).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant meets listing 1.07 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of the listing.


Therefore, Claimant is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of August 2010.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated August 12, 2010, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for June 2012.

Aaron
Administrative
for
Department



McClintic
Law Judge
Ismael Ahmed, Director
of Human Services

Date Signed: June 27, 2011

Date Mailed: June 27, 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.

AM/cl

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the 'cc:' field.