

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20119130
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date February 17, 2011
Iosco 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 17, 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) The claimant applied for MA/SDA on August 26, 2010, was denied on December 3, 2010 per PEM 260/261, and requested a hearing on November 29, 2010.
- (2) Claimant is age 46 with an 11th grade education.
- (3) Claimant was laid-off from his last employment in June of 2008 and drew UCB which expired in June of 2010.
- (4) Claimant has been a welder for the last 15 years.
- (5) Claimant's disabling physical complaints are: inability to perform any type of work because of two deformed fingers in right hand (right handed) and three in left hand; carpal tunnel syndrome; and chronic pain in neck, back, and lumbar spine.

- (6) Medical exam on [REDACTED], states the claimant has no difficulty walking or standing; that he has a normal range of motion without pain in the head/neck; and that range of motion is normal in the upper extremities (Medical Packet, Page 45).
- (7) Medical exam on [REDACTED], states the claimant has no difficulty walking or standing; that he has normal range of motion in the head/neck; and that he has normal range of motion (Medical Packet, Pages 48-49).
- (8) Medical exam on [REDACTED], states the claimant has decreased range of motion of the cervical spine; that he has decreased range of motion in the head/cervical spine; that he has normal range of motion in the extremities; that he has decreased range of motion in the lumbar spine; that he has normal range of motion in the lower extremities (Medical Packet, Pages 41-42).
- (9) Medical exam on [REDACTED], states the claimant can sit and stand about 30 minutes; that he has no problems walking, except for back pain; that he can lift upwards of 100 pounds; that there is no evidence of joint laxity, crepitation, or effusion; that grip strength is diminished bilaterally; that dexterity is mildly impaired bilaterally; that he could pick up a coin, button clothing, and open a door; that he had no difficulty getting on and off the examination table, no difficulty heel and toe walking, mild difficulty squatting, and mild difficulty hopping; that he had a normal range of motion of the hips, knees, ankles, wrists, hands and DIP joints; that motor strength and tone are normal; that Romberg testing is negative; that he walks with a normal gait without the use of an assistive device; that claimant's hands are his most significant ailment; that he did have contracture deformities to multiple joints with dexterity loss but was still able to open a door, pick up a coin, and button clothing (Medical Packet, Pages 66-70).
- (10) SHRT report dated January 13, 2011, states the claimant's impairments do not meet/equal a social security listing (Medical Packet, Page 74).

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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

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 (SGA) and, therefore, not disqualified from receiving disability at Step 1.

At Step 2, the objective medical evidence of record does not establish that the claimant is significantly limited physically to do basic work activities, as defined below, for the required duration stated 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).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months (90 days for SDA). 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 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.

Claimant claims that he cannot do any work because of his deformed fingers, but, the medical exam on [REDACTED], states the claimant was still able to open a door, pick up a coin, and button clothing.

Therefore, the claimant is disqualified from receiving disability at Step 2.

At Step 3, the claimant's severe physical impairment does not meet/equal a social security listing. Therefore, the claimant is not disqualified from receiving disability at Step 3.

At Step 4, claimant's past employment is stated above (Fact #4). The objective medical evidence the objective medical evidence does not establish the claimant's inability to do his welder's job.

If disability had not already been denied at Step 2 and 4, it would be denied at Step 5. At Step 5, the objective medical evidence of record establishes the claimant's RFC for other work in the national economy despite his physical limitations.

...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).

Claimant's testimony that he has no RFC based on his disabling complaints above, for any work, is not supported by the objective medical evidence. The medical evidence that the claimant had a residual functional capacity for basic work activities and has established his past work or any other work in the national economy. When considering only the objective medical evidence of record, the claimant would be able to perform at least sedentary work activity. At this level, considering the claimant's vocational profile (younger individual age 46, limited education, and semiskilled work experience) he is not considered disabled under Vocational Rule 201.19. Therefore, claimant is disqualified from receiving disability at Steps 2, 4 and 5.

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 UPHELD.

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

Date Signed: May 18, 2011

Date Mailed: May 19, 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:

