

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

IN THE MATTER OF:



Reg. No: 201213889
Issue No: 2009
Case No: [REDACTED]
Hearing Date: January 26, 2012
Kalkaska 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 Thursday, January 26, 2012. Claimant personally appeared and testified on his behalf.

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. On August 18, 2011, claimant applied for MA-P (and retroactive for June/July), was denied November 17, 2011 per BEM 260, and requested a hearing on November 28, 2011.
2. Claimant was age 57, and had a high school education and work experience as a semi-skilled carpenter and semi-truck driver.
3. On December 9, 2008, claimant quit his job for medical reasons and had surgery to his right arm in February 2009.
4. On December 9, 2008, claimant alleges disability due to arthritis leading to arm, wrist, hand, leg and back pain.
5. Medical exam on August 22, 2011, states the claimant has right wrist/thumb pain/swelling/stiffness; and that his condition is stable (Medical Packet, Page 18).

6. Medical exam on August 22, 2011, states the claimant complains of intermittent pain to radial and dorsal aspect of his wrist and thumb base; that his symptoms tend to be worse with heavy activity; that he is no apparent distress; that his multiple wounds are well-healed; that he has well maintained wrists and finger range of motion, that he is able to make a full fist; that gross sensation is intact (Medical Packet, Pages 58).

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.

The burden of proof is on the claimant to establish disability in accordance with the 5 step process below. ...20 CFR 460.912(a).

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, disability is not denied. Claimant has not been engaged in substantial gainful work since December 9, 2008.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the claimant's significant inability to perform basic physical work activities for the required one year **continuous** duration, as defined 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).

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 question all cases for the Administrative Law Judge is whether the claimant's medically diagnosed disorders and disabling complaints, on date of application, significantly limit his ability to perform basic work activities, as defined above.

Said another way, do the diagnosed disorders impair the claimant slightly, mildly, moderately (non-severe) or severely as defined above?

Most of the medical reports of record are examinations, diagnostic or treatments reports, and do not provide medical assessments evaluations of claimants basic work limitations/restrictions, as defined above.

Duration of Impairment

...[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.

The medical evidence of record, on date of application, does not establish a severe physical impairment on date of application that had lasted or was expected to last for a one year **continuous** duration.

Therefore, disability has not been established at Step 2 as defined above by the competent, material and substantial material 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: March 5, 2012

Date Mailed: March 6, 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

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