

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

IN THE MATTER OF:



Reg. No.: 2012-41542
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 5, 2012
County: Montcalm County

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 June 5, 2012. Claimant and his friend, [REDACTED], personally appeared and testified.

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P), Retro-MA 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 December 21, 2011, Claimant filed an application for MA, Retro-MA and SDA benefits alleging disability.
- (2) On February 29, 2012, the Medical Review Team (MRT) denied Claimant's application for MA-P, indicating that Claimant is capable of performing other work based on his non-exertional impairment, pursuant to 20 CFR 416.920(f). SDA was denied due to lack of duration. (Department Exhibit A, pp 1-2).
- (3) On March 5, 2012, the department sent out notice to Claimant that his application for Medicaid had been denied.

- (4) On March 14, 2012, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On May 3, 2012, the State Hearing Review Team (SHRT) upheld the denial of MA-P benefits indicating Claimant retains the capacity to perform medium work. SDA was denied for lack of duration. (Department Exhibit B, pp 1-2).
- (6) Claimant has a history of a learning disability.
- (7) Claimant is an 18-year-old man whose birthday is [REDACTED]. Claimant is 5'7" tall and weighs 156 lbs. Claimant is currently in the eleventh grade and worked as a janitor in 2011 for two months.
- (8) Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), 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").

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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

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 exempt 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:

(b) A person with a physical or mental impairment which meets federal SSI 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.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

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). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is

assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant is not involved in substantial gainful activity and testified that he once worked two months in 2011 as a janitor. Therefore, he is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to a learning disability.

In December 2009, and January 2012, while Claimant was seeing his primary care physician, his primary care physician noted that Claimant's affect was normal and appropriate, his speech was normal, and he had no auditory or visual hallucinations, or impairment of abstract thinking, judgment, long or short-term memory.

On April 19, 2010, Claimant was diagnosed with attention deficit hyperactivity disorder (ADHD) and obsessive-compulsive disorder (OCD), and was noted to be on high risk medications.

In February 2011, while seeing his psychiatrist, Claimant had good control over his mood. His sleep was well. His attention was very good with good academic performance. There were no side effects from his medications reported or noted. He reported taking his medications consistently as prescribed. His psychomotor activity was slightly fidgeting. His eye contact was good. His speech was fluent with normal rate, tone and volume. He provided appropriate answers of information. His thinking process was focused and goal oriented. He did not display delusional thinking. He denied suicidal or homicidal ideation. His mood was described as euthymic, pleasant, friendly, and cooperative. His affect was friendly with reasonable range. He was alert and oriented to time, place and person. His insight and judgment were fair. Diagnosis: Axis I: Obsessive-Compulsive Disorder; Enuresis (not due to general medical condition); Posttraumatic Stress Disorder, and Attention-Deficit/Hyperactivity Disorder.

In March 2011, while seeing his psychiatrist, Claimant displayed good control of mood, attention, concentration and behaviors. He did not complain of any side effects from any of the medications. He stated he takes his medications consistently as prescribed and managed by himself. He had a medication box that he fills by himself while living in his independent apartment. His psychomotor activity was within normal limits. His eye contact was good. His speech was in short sentences providing reasonable answers. His mood was described as euthymic and friendly. Affect was cooperative, but mildly restrictive. He was alert and oriented to time, place and person. His insight and judgment were good.

In April 2011, while seeing his psychiatrist, Claimant displayed good control of mood, attention and concentration behaviors only with two antipsychotics Clonidine and a current dose of Strattera and Prozac. Claimant denied any side effects from the

medications. His sleep was good without any daytime sedation. Claimant was taking his medication persistently as prescribed. His psychomotor activity was within normal limits. His eye contact was good. His speech was in short sentences providing good answers. He did not display delusional thinking. He denies current suicidal ideation. His mood was described as more irritated, violent and aggressive with a lower dose of Risperdal, but calm and well contained otherwise. His affect was friendly and cooperative with a reasonable range. He was alert and oriented to time, place and person. His insight and judgment were fair.

In June 2011, September 2011, and December 2011, Claimant met with his psychiatrist and denied suicidal ideation or self-harm behaviors, engaging in aggressive behaviors, or using alcohol, cigarettes or street drugs. Claimant stated he was taking his medications consistently and as prescribed. He denied experiencing any side effects. Claimant's psychomotor activities were within normal limits. His eye contact was good. His speech was in short sentences and he provided appropriate answers. His thinking was focused and goal oriented. His mood was described as calmer and more future oriented. His affect was friendly, cooperative and polite. He was alert and oriented to time, place and person. His insight and judgment were fair.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). In the present case, Claimant testified that he had a learning disability. Based on the lack of objective medical evidence that the alleged impairment(s) are severe enough to reach the criteria and definition of disability, Claimant is denied at step 2 for lack of a severe impairment and no further analysis is required.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P, Retro-MA and SDA benefit programs.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

/S/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/19/12

Date Mailed: 6/19/12

VLA/ds

