

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-57335

Issue No: 2009; 4031

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) and State Disability Assistance (SDA) 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. On [REDACTED] claimant applied for MA and SDA with the Michigan Department of Human Services (DHS).
2. Claimant applied for 3 months of retro MA.
3. On [REDACTED], the MRT denied.
4. On [REDACTED] the DHS issued notice.
5. On [REDACTED], claimant filed a hearing request.
6. On [REDACTED] the State Hearing Review Team (SHRT) denied claimant.
7. Claimant has an SSI application pending with the Social Security Administration (SSA).

8. Claimant is a [REDACTED] standing 5'10" tall and weighing 190 pounds.
9. Claimant testified that he feels he has an issue with alcohol or drugs and is in counseling. Claimant's medical evidence does not indicate that claimant has any significant or severe issues that affect him with regards to drugs or alcohol. Claimant does not smoke.
10. Claimant has a driver's license and can drive an automobile. Claimant no longer drives a truck.
11. Claimant has an 8th grade education.
12. Claimant is not currently working. Claimant indicated he worked for [REDACTED] years driving a truck and had a CDL license. Claimant quit working in [REDACTED].
13. Claimant alleges disability on the basis of diabetes and Hepatitis C. Medical evidence also indicates that claimant has had a mental status evaluation done on behalf of SSA (Social Security Administration)
14. The [REDACTED] SHRT findings and conclusions of its decision are adopted and incorporated by reference herein/to the following extent:

Medical Summary:

A mental status examination dated [REDACTED] showed the claimant was not currently receiving any mental health treatment. He reported being in special education and having limited ability to read and write. He also reported a history of paranoia and stated that he distrusts and is suspicious of others. His hygiene was satisfactory. He was rather serious and distant throughout the interview. His speech was intelligible. His thinking was relevant and easy to follow. Thoughts were well organized and logical. He was occasionally spontaneous, but tended to answer questions in a brief fashion. His affect was flat and he exhibited very little spontaneity or animation. On several occasions, he broke into tears. He appeared tense. His mood was depressed. He did not appear angry or suspicious during the assessment. Diagnoses included dysthymic disorder, adjustment disorder with mixed anxiety & depressed mood, social phobia and personality disorder-NOS (paranoid, avoidant) (records from DDS).

Primary care physician office visits dated [REDACTED] [REDACTED] showed the claimant was 70" and 194.4 pounds. His BMI was 27.9. His blood pressure was 144/86. His gait was normal. His left thumb had tenderness to the PIP joint, minimal swelling, palpable nodule at the base of the thumb, triggering. The claimant declined injection. A splint and ACE wrap were ordered. His examination was otherwise unremarkable. Diagnoses included diabetes and trigger thumb (records from DDS).

Primary care physician office visit dated [REDACTED] [REDACTED] showed the claimant's blood pressure was 118/70. His abdomen was soft, non-tender. There were no masses or organomegaly. The liver was not palpable. There was no rebound, guarding or rigidity. His gait was normal. Strength was 5/5 bilaterally. He had full range of motion of the extremities. Assessment included diabetes, hypertension and viral hepatitis (records from DDS). Denied pursuant to 202.11 as a guide.

15. Claimant's mental status evaluation of [REDACTED] indicates mild functional restrictions as to the ability to understand, remember and carry-out simple instructions and to make judgments on simple work related decisions. Moderate functional restrictions as to the ability to understand, remember and carry-out complex instructions as well as to make judgments on complex work decisions. Moderate functional restrictions as to the ability to interact appropriately with the public and respond appropriately to usual work situations. Moderate to marked functional restrictions as to the ability to interact appropriately with supervisors and co-workers.
16. Claimant testified at the hearing that he is essentially independent with his activities of daily living including meal preparation, dusting, washing dishes and doing laundry. Claimant does not need any assistance with his bathroom and grooming needs.

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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

Statutory authority for the SDA program states in part:

- (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.

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...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 regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.),

roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant's fatigue and physical problems do prohibit him from returning to past relevant work. However, the mental evaluation does not indicate

that claimant's mental status evaluation with regards to moderate to marked functional limitations preclude other work at his age. Thus, the analysis will continue with regards to the physical issues and this ALJ finds that the mental assessment will not preclude claimant from other work pursuant to Medical Vocational Grid Rule footnote 204.00.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge concurs with the SHRT finding that claimant could do other work pursuant to Medical Vocational Grid Rule 202.11 as a guide.

In reaching this conclusion, it is noted that the law classifies claimant as closely approaching advanced age. Under 202.11, the law requires an automatic finding of not disabled presuming claimant can be trained for other work. If and/or when claimant reaches 55, a different result may be triggered under the Medical Vocational Grids. However, as the facts stand, a finding of not disabled is required.

This ALJ finds that the finding and conclusion is consistent with the overall bulk of medical evidence and testimony herein. Claimant's diabetes and trigger thumb is not found to be inhabiting claimant's ability to be trained for other work under the Medical Vocational Grids. Claimant has a full range of motion of extremities despite his issues with his trigger thumb and despite the assessment of hypertension and viral hepatitis. Moreover, claimant's testimony regarding his activities of daily living do not indicate or reflect that his issues interfere with his ability to function on a daily basis.

For these reasons and for the reasons stated above statutory disability is not shown.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is **UPHELD**.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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 mailing date of the rehearing decision.

JGS/jk

cc:



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