

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20127394
Issue No: 2009
Case No: [REDACTED]
Hearing Date: January 10, 2012
Monroe 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, an in-person hearing was held on Tuesday, January 10, 2012. Claimant appeared with his authorized representative, from [REDACTED].

Medical reports (Claimant Exhibit A) submitted at the hearing for a second SHRT review and delayed the decision and order below.

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 March 17, 2011, claimant applied for Medicaid (MA-P), was denied on July 27, 2011 per BEM 260, and requested a hearing on October 18, 2011.
2. On date of application, claimant was age 44, and had a high school plus education, and past work experience as an unskilled/semi-skilled/skilled worker.
3. In January 2009, claimant's last job ended due to a layoff and he became an unemployment compensation benefit recipient with exhaustion in January 2010.

4. In January 2011, claimant alleges disability to the deterioration of his broken back and left ankle in 1990.
5. Medical exam on January 9, 2011, states the claimant can occasionally lift/carry less than 10 pounds; that he needs no assistive device for ambulation; that he is unable to use his extremities on a repetitive basis (Claimant Exhibit A, Page 31).
6. Medical exam on April 6, 2011, states the claimant's condition is stable (Medical Packet, Page 18).
7. Medical exam on June 11, 2011, states the claimant is well-developed, well-nourished and no acute distress; that he has mild discomfort in the lower lumbar area; that he has no obvious spinal deformity, swelling or muscle spasm noted; that the claimant does not use a cane or aid for walking; that he is able to get on and off the table slowly; that he can tandem walk, heel walk and toe walk; that he is able to squat to 60% of the distance and recovery and bend to 80° of the distance and recovery; neurologically there are no abnormalities noted; that he has the ability to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pick-up coin, pick-up pencil, write, squat and arise from squatting, get on and off examining table and climb stairs; that he has a normal range of motion of the knees, ankle, wrist, hands-fingers; and that he is able to walk on heels and toes and in tandem; that he requires no need for walking aid; and that his grip strength is 5/5 (Medical Packet, Pages 20-25).
8. Medical statement on August 5, 2011, states the claimant has significant arthritis and back pain and can't work at this time (Claimant Exhibit A, Page 32).

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 January 2009, nor after the exhaustion of his unemployment compensation benefits in January 2010.

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

The medical statement of record in August 2011 that the claimant cannot work at this time is not supported by the competent medical evidence of record.

The Department of Human Services is responsible for determining whether the claimant is disabled. Therefore, a statement by a physician that the claimant is "disabled" or "unable to work" does not that determine the claimant would be determined disabled. There must be medical evidence supporting the conclusion. ...20 CFR 416.927.

The medical evidence of record in June 2011 does not support the claimant's conclusion. This Administrative Law Judge gives more evidentiary weight to this medical evidence than to the physician's unsupported conclusion and finds inability to perform basic work activities, as defined above, has not been established.

Therefore, disability has not been established at Step 2, as defined above, by the 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, Medicaid denial is **UPHELD**.

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

Date Signed: March 9, 2012

Date Mailed: March 9, 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.

20127394/WAS

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

cc:

