

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20121887
Issue No: 2009
Case No: [REDACTED]
Hearing Date: January 18, 2012
Genesee 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 Wednesday, January 18, 2012. Claimant appeared with his authorized representative, [REDACTED].

Medical reports (Claimant Exhibit A) submitted at the hearing for a second SHRT review 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 29, 2011, claimant applied for MA-P, was denied on August 30, 2011 per BEM 260, and requested a hearing on September 26, 2011.
2. On date of application, claimant was age 38, had a high school education, and past work experience as an unskilled janitorial work and semi-skilled as a machinist.
3. Currently, claimant works 10 hours a week due to lack of work.
4. On March 29, 2011, claimant was working 20 hours a week and alleges disability due to arthritis, degenerative disc disease, hypertension, fatty

liver, gastritis, cerebral vascular accident, carpal tunnel syndrome, depression, bipolar, obsessive-compulsive disorder, anxiety and lupus.

5. Medical exam on April 2, 2010, states the claimant's MRI of the brain was unremarkable (Claimant Exhibit A, Page 19).
6. Medical exam on October 13, 2010, states the claimant's examine shows mild carpal tunnel syndrome (Medical Packet, Page 86).
7. Medical exam on September 23, 2010, states the claimant's pain has improved after starting Prilosec; that the screen for chronic liver disease was negative; that the claimant came in today doing well; that his exam is unremarkable (Medical Packet, Page 85).
8. Medical exam on October 25, 2010, states the claimant is alert and oriented x3 and not in acute distress; that affect is normal; that HEENT is grossly unremarkable; that neurological claimant's mental status is normal; that cranial nerves are grossly intact; and that motor strength is good in the upper and lower extremities (Medical Packet, Pages 82-83).
9. Medical exam on December 7, 2010, states the claimant is alert, oriented x 3, vital signs stable, mental status normal; that his HEENT is grossly unremarkable; that his extremities are normal; and that he has good motor strength, normal sensory, bilaterally upper and lower extremities and has good strength (Medical Packet, Page 80).
10. Medical exam in January 2011, states the claimant had back surgery (Claimant Exhibit A, Page 1).
11. Medical exam on January 13, 2011, states the claimant is not in acute distress; that he is alert and oriented x3; that his cranial nerves are grossly intact; that his strength was 5/5 in his four extremities (Medical Packet, Page 21).
12. Medical exam on July 6, 2011, states that the claimant has no difficulty sleeping; that he is alert and oriented x3; that he has no difficulty with loss of sensation, tingling or numbness complaints; that he ambulates without an assistive device; that he has 4-4 strength throughout his lower extremities; that he has negative straight leg raise (Claimant Exhibit A, Pages 15-16).
13. Medical exam on November 22, 2011, states the claimant use to work in maintenance for the school system (Claimant Exhibit A, Page 5).
14. SHRT report dated November 23, 2011, states the claimant's impairments do meet/equal a social security listing (Medical Packet, Page 129).

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 been engaged in just part-time work approximately 20 hours a week on date of application March 29, 2011.

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 mental/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, as defined above) or severely, as defined above?

Most of the medical reports of record are examination, diagnostic or treatment reports, and do not provide medical assessments of claimant's basic limitations/restrictions, as defined above.

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

If disability had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of record does not establish a severe impairment meeting/equaling a social security listing for the required duration.

If disability had not already been denied at Step 2, it would be denied at Step 4 where the medical evidence of record, on date of application, does not establish claimant's inability, despite her impairments, to perform any of his past work for the required one year continuous duration.

If disability had not already been denied at Step 2, it would be denied at Step 5 where the medical evidence of record, on date of application, does not establish the claimant was without a residual functional capacity (RFC), despite her impairments, to perform any other work in the national economy for the required one year continuous duration.

...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).

The medical evidence of record, on date of application, does not establish that the claimant was without a RFC for less strenuous work than his past work, such as sedentary work, as defined above. Under the medical-vocational guidelines, a younger individual, age 38, with a high school education, and unskilled/semi-skilled work history who is limited to sedentary work is not considered disabled.

Therefore, disability has not been established at Step 2 and also at Steps 4 and 5, 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: April 6, 2012

Date Mailed: April 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

cc:

