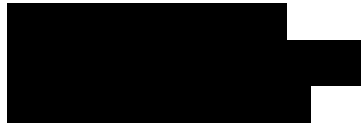


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No: 201227319
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: March 20, 2012
Wayne 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 Tuesday, March 20, 2012. Claimant appeared and provided testimony 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. Claimant's MA-P/SDA application on August 17, 2011 was denied on January 13, 2012 per BEM 260/261, with a hearing request on January 24, 2012.
2. Claimant was age 48, with a 11th grade education, and history of unskilled work.
3. Claimant last worked in 2004.
4. Claimant alleges disability due to multiple medically diagnosed physical disorders in combination.
5. Medical exam on August 29, 2011, states the claimant's condition is stable (Medical Packet, Page 32).

6. Medical exam on August 29, 2011, states the claimant is disabled from any type of employment (Medical Packet, Page 41).
7. Medical exam on August 24, 2011, states the claimant continues to have some problems with his chronic ocular surface disease and dry eyes; that he will follow-up in one month to recheck his vision as well as the visual field test to reassess his vision; and hopefully, his condition should be improved following this treatment (Medical Packet, Page 65).
8. Medical exam on October 11, 2011, states the claimant is disabled from work from October 27, 2011 through November 3, 2011 (Medical Packet, Page 27).
9. Medical exam on November 22, 2011, states the claimant is well-developed, well-nourished, cooperative and in no acute distress; that he is awake, alert and oriented x3; that there is no evidence of back pain or weakness that was noted; that there is no evidence of any obvious abnormalities or deformity; that he did have a cane; that he was able to ambulate without it during the exam; that he was able to sit in the chair and that was normal; that he was observed bending to 70° – 80° degrees of the distance and recovery; that he was able to raise his right shoulder and that was observed; that the exam was very limited based upon poor participation by the claimant; that it was difficult to make a complete evaluation because he refused to do most of the exam; that he used a cane during the exam, and was noted to have a slight limp on the left side; that there was no evidence of any neurologic abnormalities; and that he had a normal range of motion for the cervical spine (Medical Packet, Pages 11-13).
10. On November 22, 2011, medical assessment of claimant's physical movements stated he had the ability to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pickup coin, pickup pencil, write, squat and arise from squatting, get on and off examining table, and climb stairs; that he had a stable gait within normal limits (Medical Packet, Pages 15 and 16).
11. Medical exam on November 22, 2011, states the claimant has uncorrected vision and does not wear glasses/contacts (Medical Packet, Page 17).

CONCLUSIONS OF LAW

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since 2004.

At Step 2, disability is denied. The medical evidence of record does not establish the claimant's significant inability to perform basic work activities due to a severe physical impairment in combination for a 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 is whether the claimant's medically diagnosed physical disorders are non-severe or severe in combination based on the definition above. Said in another way, do the claimant's medically 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 diagnostic and treatment reports, and do not provide medical assessments of claimant's physical limitations relative to ability to perform basic work activities, as defined above. 20 CFR 460.913(c)(1)(2).

To the contrary, the medical assessment report in November 2011 shows the claimant has the ability to perform basic work activities.

The medical evidence of record establishes a non-severe impairment. Therefore, a severe physical impairment in combination meeting the one year continuous duration has not been established.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

Therefore, disability has not been established at Step 2 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/SDA denial is **UPHELD**.

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

Date Signed: April 3, 2012

Date Mailed: April 4, 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:

