

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201233929
Issue No: 2009
Case No: [REDACTED]
Hearing Date: May 9, 2012
Kalamazoo 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, May 9, 2012. Claimant appeared with his authorized [REDACTED], [REDACTED]. The Department's witness was [REDACTED].

The record was extended 90 days at the Claimant's request for a 2nd SHRT review of additional medical reports introduced at the hearing (Claimant Exhibit A).

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 application on August 11, 2011 was denied on September 1, 2011 per BEM 260, with a hearing request on November 23, 2011.
2. Vocational factors: Age 49, 11th grade education, and history of semi-skilled work.
3. Claimant ended his last employment in September 2000, and became an [REDACTED] with exhaustion after [REDACTED]

4. Claimant alleges disability based on a combination of multiple medically diagnosed mental/physical disorders (Medical Packet, Page 116).
5. Medical reports state the Claimant on:
 - a. May 2, 2011, appears alert, oriented x3 with some confusion; that he has a regular heart rate and rhythm with no murmurs; that neurologically he had no focal deficits; that cranial nerves II-XII are grossly intact; that he is oriented to person, place, time, and events; that speech is normal/clear; that movement and strength in all extremities are equal (Medical Packet, Pages 59 and 69).
 - b. June 29, 2011, is calm, cooperative, alert, oriented, and in no apparent distress (Claimant Exhibit A, Page 5).
 - c. September 26, 2011, has been doing better; that he is physically active but clearly does not exercise on a regular basis; and that neurologically he has no gross motor or sensory deficits (Claimant Exhibit A, Pages 6-8).
6. Medical assessment report on November 11, 2011, states the Claimant's mental status examination appeared to be appropriate for a majority of the examination; that he states he can sit for 15 minutes and stand or walk for 10 minutes; that he can lift 20 pounds; that he had **mild** difficulty with getting on and off the exam table and heel and toe walking; that he had moderate difficulty with squatting; that gait was normal; that he does not use an assistive device for ambulation; that there is no obvious bony deformity; that he has limited range of motion of the lumbar spine; that otherwise all other range of motion is intact and full; that grip strength is normal; that hands have full dexterity; that range of motion for the dorsal lumbar spine is normal; that cranial nerves II-XII are grossly intact; that he is alert and oriented to person, place and time; that many-mental status examination was within normal limits; that reflexes are present and symmetrical (Medical Packet, Pages 100-102).
7. SHRT decision dated March 30, 2012 states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 116).

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 Claimant has the burden of proof to establish disability as defined above by the preponderance of the evidence of record and in accordance with the 5 step process below. 20 CFR 416.912(a).

When determining disability, the federal regulations are used as a guideline and 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).

Disability is not denied at Step 1. The evidence of record established that the Claimant has not been engaged in substantial gainful work since 1999-2000.

Disability is denied at Step 2. The medical evidence of record does not establish, on date of application, the Claimant's significant inability to perform basic work activities due to a combination severe mental/physical impairment 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 medical reports of record are examination, diagnostic and treatment reports, and do not provide medical assessments of Claimant's mental/physical limitations relative to inability to perform basic work activities, as defined above. 20 CFR 416.913(c)(1) and (2).

The medically evidence of record established a combination non-severe impairment, as defined above. Therefore, a combination severe mental/physical impairment meeting the one year continuous duration requirement, as defined above, has not been established. Stated differently, does the combination of mental/physical impairment impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

If disability had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of record, on date of application, does not establish a severe impairment meeting/equaling a Social Security listed impairment and the duration requirement.

The Listing of impairments describes for each of the major body systems, impairments are considered severe enough to prevent a person from doing any gainful activities. Most of the listed impairments are permanent or expected to result in death, or a specific statement of duration is made. For all others, the evidence must show the one year continuous duration. 20 CFR 416.925(a).

Claimant introduced no medical evidence of record by a treating, examining, or non-examining physician stating Claimant's impairments would meet the requirements for any Social Security listed impairment. To the contrary, the SHRT medical consultant addressed the matter and found insufficient medical evidence of disability under a Social Security listing.

If disability had not already been denied at Step 2, it would be denied at Step 4. The medical evidence of record, on date of application, does not establish Claimant's inability, despite his 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. The medical evidence of record, on date of application, does not establish the Claimant was without a residual functional capacity (RFC), despite his 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 49, with an 11th education, and semi-skilled work history 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, MA-P denial is **UPHELD**.

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

Date Signed: June 22, 2012

Date Mailed: June 25, 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:

