

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201236861
Issue No: 2009
Case No: [REDACTED]
Hearing Date: May 8, 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, May 8, 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 application on January 3, 2012 was denied on February 16, 2012 per BEM 260.
2. Claimant was age 41, with a high school plus education, and history of semi-skilled work as a driver and trash pick-up with one hand, and skilled [REDACTED] truck driver, mail sorter, load/unload truck and scanner operator with one hand.
3. Claimant ended his last employment in September 2009, and became an [REDACTED]) with exhaustion in April 2010.
4. Claimant alleges disability based on a combination of right hand amputation (1987) and left hand carpal tunnel syndrome (medical packet, page 23).

5. Medical reports state that the Claimant on:
 - a. May 3, 2011, the Claimant underwent a traumatic amputation of his right hand and part of the forearm over 15 years ago; that he has worked ever since until very recently; that most of the occupations he was involved entailed use of the left wrist; that he denies any weakness, although he does complain of some numbness in the first two fingers of his left hand; that a diagnoses of carpal tunnel syndrome was made and he was given neutral wrists splints; that motor examination shows strength is normal in the hand including intrinsic muscle; that there is normal strength in the opponens pollicis; that sensation is intact to pin and vibration; and that his problem currently is not so much neural dysfunction as discomfort (medical packet, pages 18-19).
 - b. May 31, 2011, regarding his wrist pain, he stated that the NAPROSYN 500 mg presently helped a great deal (medical packet, page 17).
 - c. September 6, 2011, states he can lift 3 pounds with left arm; that during an 8 hour workday he can use hands/fingers/arms for the following activities: 10% for fine manipulations, 25% of the time reaching in front of the body, and 25% of the time reaching overhead (medical packet, page 16).

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).

Disability is not denied at Step 1. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since September 2009.

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 of severe physical impairments 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 records are mostly examination, diagnostic and treatment reports, and do not provide medical assessments of Claimant's physical limitations relative to inability to perform basic work activities, as defined above. 20 CFR 416.913(c)(1) and (2).

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

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 denial is **UPHELD**.

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

Date Signed: May 11, 2012

Date Mailed: May 11, 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:

