

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-41007
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: May 29, 2012
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on May 29, 2012, by teleconference in Detroit, Michigan. Participants on behalf of claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Was the denial of claimant's application for Medical Assistance (MA-P), State Disability Assistance (SDA), and retroactive MA-P benefits for lack of disability correct?

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 applied for MA-P, SDA, and retroactive MA-P on April 28, 2011.
2. Claimant is 49 years old.
3. Claimant has a 12th grade education.
4. Claimant has no work history.
5. Claimant is not currently engaged in SGA.
6. Claimant alleges disability due to left lower extremity pain, COPD, hypertension and depression.

7. Claimant has presented no medical records of left lower extremity pain or COPD.
8. Claimant has submitted psychological records that indicate a moderate impairment in remembering and carrying out detailed instructions, but no other impairments.
9. Psychological records indicate a GAF of 65, with “some depression at times,” “some irritability,” and varied energy levels.
10. Claimant is motivated, with normal sleep patterns, and normal appetite.
11. Claimant has no psychiatric hospitalizations, no history of suicidal ideation and no hallucinations.
12. Claimant is logical, goal directed, with intact judgment, and is orientated.
13. Claimant is able to perform all activities of daily living.
14. Claimant’s psychiatric records do not show or state that claimant’s impairments have an affect on the performance of job-related abilities.
15. There is no medical documentation of impairments in concentration, persistence and pace, memory, insight or judgment, or dealing with routine changes in work settings or supervision.
16. On February 16, 2012, the Medical Review Team denied MA-P and SDA, stating that claimant could perform other work.
17. On March 7, 2012, claimant was sent a notice of case action.
18. On March 15, 2012, claimant filed for hearing.
19. On May 3, 2012, the State Hearing Review Team (SHRT) denied MA-P and SDA, stating that claimant could perform other work.
20. On May 29, 2012, a hearing was held before the Administrative Law Judge.

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 administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (Department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and BRM.

Federal regulations require that the Department use the same operative definition of the term “disabled” as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

Disability is defined as 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.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant’s disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

The first step that must be considered is whether the claimant is still partaking in SGA. 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2012 is \$1,690. For non-blind individuals, the monthly SGA amount for 2012 is \$1,010.

In the current case, claimant testified that he is not working, and the Department has presented no evidence or allegations that claimant is engaging in SGA. Claimant has not been engaging in SGA during any of the time this application and hearing have been pending. Therefore, the undersigned holds that claimant is not performing SGA and passes step one of the five step process.

The second step that must be considered is whether or not the claimant has a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual’s physical or mental ability to perform basic work activities. The term “basic work activities” means 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 purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, claimant has not presented evidence of a severe impairment that has lasted or is expected to last the durational requirement of 12 months.

Claimant has alleged an impairment stemming from left lower extremity pain, COPD, and depression.

There are no medical records that show treatment for left lower extremity pain or COPD. Therefore, claimant has failed to prove that he is impaired with regard to COPD or leg pain.

Furthermore, while claimant has alleged depression, claimant did not allege depression on his initial application and, thus, the Administrative Law Judge should not consider depression in this analysis. However, the undersigned will conduct an analysis for the sake of argument.

At the hearing, claimant alleged an inability to work because of “depression,” but offered no other specifics. Claimant’s treating source evaluations offer, at most, a mild impairment with respect to remembering and carrying out detailed instructions, but no other limitations. Claimant’s other treatment records noted that claimant had normal thought processes, intact memory, and was alert and orientated to person, place, and time. Claimant was well dressed with appropriate hygiene, made good eye contact,

was cooperative, and displayed no agitation. Claimant had good energy levels, was motivated, orientated, and had no history of psychiatric hospitalizations. While it was noted that claimant was depressed and irritable on occasion, there was no indication that such moods were an impediment to claimant's work-related abilities or substantially impacted the same. Claimant's GAF of 65 is consistent with these findings.

Furthermore, at no point in the psychological record are there indications that claimant had, at any point, a difficulty in remembering, understanding, or carrying out simple instructions, had impaired judgment, or was unable to respond appropriately to supervision, coworkers or work situations. There is also no indication that claimant would be unable to deal with routine changes in work settings.

While it is undisputed that claimant had, and continues to deal with, moderate depression, the medical record does not establish that this mental impairment affects claimant's ability to perform work-related functions in any way. While claimant alleged difficulties such as anhedonia, such allegations are not supported in the existing medical record and, thus, the undersigned can give no weight to such allegations. Claimant is able to perform all activities of daily living, and has reported no side effects from medications.

Thus, for the reasons stated above, the Administrative Law Judge holds that claimant has not presented competent evidence there is a severe psychological or physical impairment that would prevent work-related activities for a period of 12 months or more.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c).

The medical record as a whole does not establish any impairment that would impact claimant's basic work activities for a period of 12 months. There are no current medical records in the case that establish that claimant has, or continues to have, a serious medical impairment. There is no objective medical evidence to substantiate claimant's claim that the impairment or impairments are severe enough to reach the criteria and definition of disabled. Accordingly, after careful review of claimant's medical records, this Administrative Law Judge finds that claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) and SDA program.

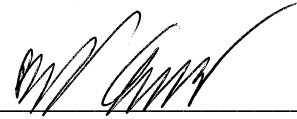
As a finding of not disabled can be made at the step two of the five-step process, no further analysis is required. 20 CFR 416.920.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not disabled for the purposes of the MA and SDA

programs. Therefore, the decision to deny claimant's MA-P and SDA application was correct.

Accordingly, the Department's decision in the above-stated matter is, hereby, **AFFIRMED**.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 11, 2013

Date Mailed: February 11, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

2012-41007/RJC

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

