

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

IN THE MATTER OF:



Reg. No: 201241540
Issue No: 2009
Case No: [REDACTED]
Hearing Date: June 6, 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, a telephone hearing was held on Wednesday, June 6, 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 October 7, 2011 was denied on March 5, 2012 per BEM 260, with a hearing request on March 19, 2012.
2. Claimant was 20, with a 10th grade education and is currently working on a GED, and no work history (Medical Packet, Page 15).
3. Claimant has never worked.
4. Claimant alleges disability due to a combination mental/physical impairment (Medical Packet, Page 195).
5. Medical reports states the Claimant on:
 - a. December 30, 2010, was neurologically alert, oriented x3, and no acute distress; that psychiatrically he had a normal affect, and adequate judgment and memory; and that he had a current GAF score of 60 (Medical Packet, Pages 177 and 181).

- b. June 27, 2011, had a current GAF score of 60 (Medical Packet, Page 37).
- c. December 3, 2011, regarding understanding and memory, was not significantly limited in ability to remember locations and work-like procedures, understand and remember 1 or 2-step instructions, understand and remember detailed instructions; and regarding sustained concentration and persistence was not significantly limited in ability to carryout 1 of 2-step instructions, carryout detailed instructions, work in coordination with or proximity with others without being distracted by them, make simple work-related decisions; that regarding social interaction he was not significantly limited in ability to interact appropriately with the general public, ask simple questions or request assistance, get along with co-workers or peers without distracting them or exhibiting behavioral extremes; and regarding adaptation he was not significantly limited in ability to be aware of normal hazards and take appropriate precautions, and travel in unfamiliar places or use public transportation (Medical Packet, Pages 26 and 27).
- d. December 16, 2011, was mildly anxious; that he was cooperative in answering questions and following commands; that his immediate, recent and remote memory was intact with normal concentration; that his insight and judgment are both appropriate; that he is right handed after injury to left hand; that there is no evidence of joint laxity, crepitanace, or effusion; that he has full grip strength with full fist on the right with decrease grip strength and fist on the left; that dexterity is severely impaired on the left and intact on the right; that he could pickup a coin, button clothing and open a door on the right only; that he had no difficulty getting on and off the examination table, and had mild difficulty heel-and-toe walking, squatting, hopping; that range of motion was normal for the cervical spine, dorsal lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, hands-fingers; that cranial nerves are intact; that motor strength is 3/5 in the left upper extremity; that muscle tone is normal; that sensory is intact to light touch and pinprick; that he walks with a mild right limp without the use of an assist device; that his wound to left hand significantly diminished range of motion and severe dexterity use; that he did have associated atrophy of the left forearm and does complain of pain in the shoulder; that he is not undergoing any treatment other than pain management; that his right hand is normal; that his overall physical degree of impairment is moderate and unfortunately permanent (Medical Packet, Pages 7-11).

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 establishes that the Claimant has never been engaged in substantial gainful work.

Disability is denied at Step 2. The medical evidence of record, on date of application, does not establish the Claimant's significant functional incapacity 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).

SEVERE IMPAIRMENT

To qualify for MA-P, claimant must first satisfy both the gainful work and the duration criteria (20 CFR 416.920(a)) before further review under severity criteria. If claimant does not have any impairment or combination of impairments which significantly limits physical or mental ability to do basic work activities, an ultimately favorable disability determination cannot result. (20 CFR 416.920(c)).

The medical evidence of record established the Claimant's GAF scores as 60 in December 2010 and June 2011. These scores describe a person with a non-severe or borderline moderate/mild impairment with occupational-functioning. DSM-Iv (4th edition-revised).

Claimant admitted at the hearing that despite his impairments he had the functional capacity to do light type work; and that he was able to lift/carry 20 pounds.

The medical reports of record are mostly diagnostic and treatment reports, and do not provide medical assessments of Claimant's mental/physical limitations relative to his functional incapacity to perform basic work activities, as defined above. 20 CFR 416.913(c)(1) and (2). Stated differently, does the combination mental/physical impairment impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical 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.

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: June 8, 2012

Date Mailed: June 8, 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:

