

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-49965

Issue No: 2009; 4031

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 telephone hearing was held on [REDACTED].

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) and State Disability Assistance (SDA) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], claimant applied for MA and SDA with the Michigan Department of Human Services (DHS). Claimant was previously on MA under a caretaker/relative category for approximately four years, which was recently closed.
2. Claimant did not apply for retro MA.
3. On [REDACTED] the MRT denied.
4. On [REDACTED] DHS issued notice.
5. On [REDACTED], claimant filed a hearing request.
6. On [REDACTED], the State Hearing Review Team (SHRT) denied claimant.

7. Claimant has been denied SSI by the Social Security Administration (SSA). Claimant has another application pending – it is his second application.
8. As of the date of application, claimant was a [REDACTED] standing 5'10" tall and weighing 160 pounds.
9. Claimant has an alcohol/drug abuse history. Claimant does not have any current use. Claimant does not smoke.
10. Claimant has a driver's license.
11. Claimant has a high school education.
12. Claimant is not currently working. Claimant last worked in [REDACTED] Claimant's work history is medium, unskilled.
13. Claimant alleges disability on the basis of lower back pain, leg issues, knee and foot pain and bipolar disorder.
14. The [REDACTED] SHRT findings and conclusions of its decision are adopted and incorporated by reference herein/to the following extent:

[REDACTED] consultative examination dated [REDACTED] showed the claimant has never had a psychiatric admission. The claimant has a history of alcohol and polysubstance abuse. He is able to do light household chores and cooking. His grooming and hygiene were fair. He had good eye contact. He was somewhat vague. His gait was normal. His thought process was well organized and easy to follow. His speech was spontaneous, logical, well organized and goal directed. He denied psychotic symptoms. His affect was labile and appropriate. Diagnoses included history of polysubstance abuse and bipolar disorder.

[REDACTED] dated [REDACTED], showed the claimant's current diagnoses included hyperlipidemia, osteoarthritis of the bilateral knees, depression and lumbar disc disease. The claimant was 5'10" and 184 pounds. He had severe pain. He had severe osteoarthritis in the bilateral knees with pain and a slow gait. No

neurological deficits or abnormalities were noted. Denied per 202.20 as a guide.

Analysis: claimant has the following severe impairments: history of polysubstance abuse, bipolar disorder, osteoarthritis of the bilateral knees, lumbar disk disease. Hyperlipidemia is non-severe. Despite claimant's back and knee pain, there is no evidence of significant neurological deficits. He is able to ambulate without any assistance. Therefore, these conditions do not satisfy requirements of listings 1.02 or 1.04. Bipolar disorder has not required psychiatric treatment. Claimant denied current substance abuse. He is able to complete his own basic activities of daily living. He has not had persistent depressive and manic symptoms resulting in restrictions of activities of daily living or repeated episodes of decompensation. Therefore, conditions do not satisfy requirements of listing 12.04.

15. Claimant's testimony regarding his ability to engage in activities of daily living was inconsistent with the medical evidence. [REDACTED] report indicates that claimant is able to do light household chores and cooking. Claimant's grooming and hygiene were fair at evaluation; claimant does not need any assistance with his bathroom and grooming needs.
16. A number of claimant's evaluations indicate issues claimant has with custody concerns.

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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Prior to any substantive review, jurisdiction is paramount. Applicable to the facts herein, is the jurisdictional issue with regards to claimant's prior denial by SSA. Under 42 CFR 435.541 and other relevant federal regulations found at 42 CFR part 435: "an SSA disability determination is binding on an agency until the determination is changed by the SSA." 42 CFR 435.541(a)(b)(i).

Certain exceptions apply which are not applicable herein.

In the case herein, evidence on the record indicates that claimant had a denial by SSA of a prior SSI application. Claimant's denial was within 12 months of the application herein. Under the relevant federal guidelines cited above, there is no jurisdiction for the ALJ to proceed with the substantive analysis.

It is noted in the alternative, the sequential analysis will be applied.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...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 regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant cannot return to past relevant work on the basis of the medical evidence. The analysis continues.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge concurs with the SHRT decision in finding claimant not disabled pursuant to issues and considerations of Medical Vocational Grid Rule 202.20 as a guide.

The 6th Circuit has held that subjective complaints are inadequate to establish disability when the objective evidence fails to establish the existence of severity of the alleged pain. *McCormick v Secretary of Health and Human Services*, 861 F2d 998, 1003 (6th cir 1988).

Claimant has the burden of proof from Step 1 to Step 4. 20CFR 416.912(c). Federal and state law is quite specific with regards to the type of evidence sufficient to show statutory disability. 20 CFR 416.913. This authority requires sufficient medical evidence to substantiate and corroborate statutory disability as it is defined under federal and state law. 20 CFR 416.913(b), .913(d), and .913(e); BEM 260. These medical findings must be corroborated by medical tests, labs, and other corroborating medical evidence that substantiates disability. 20 CFR 416.927, .928. Moreover, complaints and symptoms of pain must be corroborated pursuant to 20 CFR 416.929(a), .929(c)(4), and .945(e). Claimant's medical evidence in this case, taken as a whole, simply does not rise to statutory disability by meeting these federal and state requirements. 20 CFR 416.920; BEM 260, 261.

As to the specific evidence herein, it is noted that many of claimant's complaints seem to be related to normal aging. Statutory disability does not recognize normal aging as statutorily disabling absent as showing that there is a medical condition or diagnosis which interferes with the individual's ability to engage in work or work like settings. Such is not shown by the great bulk of the medical evidence herein pursuant to the requirements found at 20 CFR 416.913(b), .913(d), and .913(e).

It is also noted that claimant seem to have many issues with regards to custody which creates a lot of stress in his life. While unfortunate, such is not the type of diseases or medical issue recognized as statutorily disabling as there is insufficient medical documentation regarding a mental or emotional disorder meeting the requirements found at 20 CFR 416.913 and .927. Moreover, the requirements are not met at 20 CFR 416.920(e).

