

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

IN THE MATTER OF:



Reg. No.: 2013-24728
Issue No.: 2009; 4031
Case No.: [REDACTED]
Hearing Date: April 18, 2013
County: Macomb-20

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was commenced on April 18, 2013, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny Claimant's Medical Assistance (MA), Retro-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 October 4, 2012, Claimant filed an application for MA/Retro-MA and SDA benefits alleging disability.
2. On December 28, 2012, the Medical Review Team (MRT) denied Claimant's application for MA/Retro-MA indication his impairments lacked 12 months duration. (Depart Ex. A, pp 1-2).
3. On January 10, 2013, the department caseworker sent Claimant notice that his application for MA/Retro-MA and SDA had been denied.
4. On January 17, 2013, Claimant filed a request for a hearing to contest the department's negative action.
5. On March 14, 2013, the State Hearing Review Team (SHRT) found Claimant was not disabled and retained the capacity to perform a wide range of light work. (Depart Ex. B, pp 1-2).

6. Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.
7. Claimant is a 44 year old man whose birthday is [REDACTED] Claimant is currently 5'6" tall and weighs 132 lbs.
8. Claimant does not have an alcohol/drug abuse problem or history. Claimant smokes 5 to 8 cigarettes a day. Claimant has a nicotine addiction.
9. Claimant has a driver's license and can drive an automobile.
10. Claimant has an eighth grade education.
11. Claimant is not currently working. Claimant last worked in February, 2012.
12. Claimant alleges disability on the basis of rheumatoid arthritis, psoriasis, significant adhesive capsulitis of both shoulders, and depression.
13. On July 27, 2012, Claimant underwent a medical evaluation by the Disability Determination Service. The examining physician found Claimant has pain in the lumbar spine. He is unable to heel walk, toe walk, and tandem walk as he gets dizzy. He has impaired/sensory/vibration in both hands and feet and limited hand mobility due to pain and range of motion. (Dept Ex. A, pp 26-33).
14. On September 17, 2012, Claimant's lab results were positive for the Rheumatoid Factor. (Dept Ex. A, p 51).
15. On October 24, 2012, Claimant's treating physician completed a medical evaluation indicating that Claimant is in intense pain, is underweight and undernourished. He suffers from fatigue. He has severe bony destruction with deformities. He is depressed with a flat affect. Claimant's treating physician opined that Claimant's condition is deteriorating and he is unable to meet his needs in his home due to the pain in his hands. (Dept Ex. A, pp 46-47).
16. On November 9, 2012, during a rheumatological evaluation, Claimant was diagnosed with chronic inflammatory polyarthritis with psoriasis with high-titer positive rheumatoid factor, suggesting rheumatoid arthritis versus the possibility of psoriatic arthritis. He also has significant adhesive capsulitis of both shoulders and a history of smoking. The rheumatologist prescribed prednisone due to the severity of Claimant's symptomology and noted that Methotrexate may be considered later. The rheumatologist opined that at some time in the future, Claimant most likely will be a candidate for biologic therapy. (Dept Ex. A, p 43).
17. On January 8, 2013, Claimant was given a prescription for Methotrexate. (Claimant Ex. E).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

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.

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).

In Claimant's case, the ongoing chronic pain, dizziness, and inability to grip with his hands due to the loss of mobility is consistent with the objective medical evidence presented. Consequently, great weight and credibility must be given to his testimony in this regard.

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). Based on the severity of the rheumatoid arthritis, psoriasis, significant adhesive capsulitis of both shoulders, and depression, this Administrative Law Judge finds that Claimant's medical record will support a finding that Claimant's impairment are equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A.

Accordingly, this Administrative Law Judge concludes that Claimant is disabled for purposes of the MA program. Consequently, the department's denial of his October 4, 2012, MA/Retro-MA/SDA application cannot be upheld.

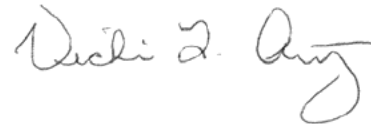
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA and SDA eligibility purposes.

Accordingly, the department's decision is REVERSED, and it is Ordered that:

1. The department shall process Claimant's October 4, 2012, MA/Retro-MA and SDA application, and shall award him all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. The department shall review Claimant's medical condition for improvement in May, 2014, unless his Social Security Administration disability status is approved by that time.
3. The department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 10, 2013

Date Mailed: May 10, 2013

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 mailing date of the rehearing decision.

VLA/nr

cc:

