

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013815
Issue No: 2009
Case No: [REDACTED]
Hearing Date: February 5, 2013
Wayne County DHS #18

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, February 5, 2013. Claimant appeared and provided testimony on his behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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/SDA application on July 18, 2012, was denied on September 7, 2012 per BEM 260/261, with a hearing request on September 21, 2012.
2. Vocational factors: Age [REDACTED] with 10th grade education, and history of semi-skilled work as a machine repair foreman. (DHS Exhibit A, Pg. 9)
3. In 2009/2010 claimant quit his last employment due to a medical condition and exhausted his UCB benefits in November, 2012.
4. Claimants diagnosed medical impairments are chronic obstructive pulmonary disease, chest pain, irritable bowel syndrome, carpal tunnel syndrome, history of alcohol abuse, and colon cancer. (DHS Exhibit A, Pg. 48)
5. Claimants disabling physical symptoms are intermittent tingling in hands, and frequent urination every 2-3 hours.

6. Medical reports of record state the Claimant on:
 - a. June 2, 2012: Is alert, oriented times three, with *no gross neurological abnormalities*. (DHS Exhibit A, Pg. 17).
 - b. June 3, 2012: Is in good general condition and not in any type of distress; that head and neck are within normal limits; that he has normal breath sounds and no rales or wheezes. (DHS Exhibit, Pg. 15).
 - c. June 26, 2012: Has a *normal* musculoskeletal, neuro; that his condition is improving; that he has a temporary disability; that he is limited to occasionally lifting/carrying ten pounds; that he does not require an assistance device for ambulation; that he cannot use his hands/arms and feet/legs for *repetitive* action. (DHS Exhibit A, Pgs. 10-11).

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

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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.

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).

The burden of proof is on the claimant to establish disability in accordance with the 5 step process below. ...20 CFR 416.912(a).

The burden of proof shifts to the DHS at step 5 ...20 CFR 416.912 (b).

Step 1, disability is not denied. The evidence of record established the Claimant has not engaged in substantial gainful activities since 2009/ 2010. Therefore the sequential evaluation is required to continue to the next step.

Step 2, disability is denied. The objective 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 severe physical impairment, in combination, for the required 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)).

Acceptable medical sources about your impairments are an M.D. or D.O. or fully licensed psychologist ...BEM 260.

...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 objective medical evidence of record, Findings of Fact # 6, does not support the claimant's disabling symptoms. (Findings of Fact #5). To the contrary, the claimant testified the he has been applying for general labor type work and has the residual functional capacity to lift/carry 50 pounds.

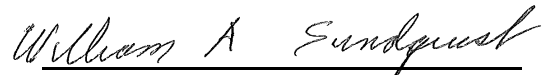
The medical evidence of record shows the claimant's examinations were normal and unremarkable; and that he had a temporary disability.

The Claimant has not sustained his burden of proof to establish a medically severe physical impairment, instead of a non-severe impairment, in combination for the required duration. Therefore, the sequential evaluation is not required to continue to the next step.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides disability was not medically established.

Accordingly, MA-P denial is **UPHELD**.



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

Date Signed: April 5, 2013

Date Mailed: April 5, 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 receipt date of the rehearing decision.

WAS/hj

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cc:

