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

IN THE MATTER OF: Reg. No:

Reg. No: 2013-17351 Issue No: 2009;4031 Case No:

Hearing Date: March 21, 2013

Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant 's request for a hearing to protest the denial of claimant's application for MA. A fter due notice, a telepho ne hearing was held on March 21, 2013. Claimant per sonally appeared and testified. The department was represented at the hearing by Eligibility Specia list, Payment Supervisor,

<u>ISSUE</u>

Whether claimant meets the di sability criteria for Medica I Assistance (MA-P) and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

- On September 5, 2012, claimant filed an application for Medica I Assistance, Retroactive Medic al Assistance and St ate Disab ility Assistance benefits alleging disability.
- On November 19, 2012, the Medical Review Te am denied claimant's application stating that claimant c ould perform other work pursuant to Medical Vocational Rule 202.20.
- 3. On November 27, 2012, the department caseworker sent claimant notice that his application was denied.
- 4. On December 6, 2012, claimant filed a request for a hearing to contest the department's negative action.
- 5. On January 31, 2013, the State Hear ing Review Team again denied claimant's application st ating in its ana lysis and recommendation: the

claimant underwent cervical dis cectomy and foraminotomy of C6-7 with insertion of prodisc at C6-7 in Apr il, 2012. An EMG and nerve conduction study of the left upper limb in Ma y, 2012 was nondiagnostic and within normal limits. There was no ev idence of cervical radiculopathy or any other left upper limp peripher al nerve impairment. He continued to have left arm pain after healing from his total disk arthroplasty and repeat MRI showed osteophyte formation impinging on the left C4 foraminal recess. In August, 2012, he underwent C4-5 disc insertion. At discharge, he had full range of motion of the upper extremitie s and grip strength was intact at 5/5. On August 29, 2012, he underwent fusi on of the right first MP joint. In September, 2012, the surgical site was well healed. There was no erythema or edema. There was excellent position of the hallux. There was rigid fixation of the MP joint. In Oc tober, 2012, the claim and had pretty good range of motion in the neck. There was no evidence of swelling. He spoke with a normal voice. There was no evidence of any vocal cord paralysis. Neurologic ally, he appeared to be intact. X-rays taken of h is neck showed artificial disc at C4-5 and C6-7. It was moving with flexion and extension and appeared to be in good position. Alignment was good. There was no prevertebral body swelling. A neuro logical examination in October, 2012 showed the claimant's mental status was alert, oriented, fluent and appropriate. Ther e was no dysar thria. Motor examination was full in the upper and lower extremity. Gait was with a walking boot. He does hae chronic daily tension headac hes. He had been started on a medciation his previous visit and he noted that is did decr ease his headaches somewhat. The doctor recommended he stay on the medication to have more time to get full affect. The claimant is not currently engaging in subst antial gainful activity based on the information that is available in file. The claim ant's impairments do not meet/equal the intent or severity of a Social Secu rity listing. The medical evidence of record indicates that the claimant retains he capacit v to perform a wide range of at least sedentary work. A finding about the capac ity for prior work has not been made. However, this information is not material because all potentially applicable m edical-vocational guidelines would direct a finding of not disabled given the claimant's age, education and residual functional capacity. Therefore, based on the claimant's vocational profile (younger individual, high school equiv alent and history of unskilled/semi-skilled work), MA-P is denied using Vocational Rule 201.27 as a quide. Retroactive MA-P was cons idered in this case and is also denied. SDA is denied per PEM 261 becau se the nature and s everity of the claimant's impair ments would not pr eclude work activity at the above stated level for 90 days.

- 6. The hearing was held on March 21, 2013. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- 7. Additional medical information was s ubmitted and sent to the State Hearing Review Team on April 18, 2013.

On July 3, 2013, the State Hear ing Review Team approved c laimant for 8. Medical Assistance and St ate Disability Assistance e benefits stating the claimant's impairments/combination of impairments does not meet/equal the intent or severity of a Soc ial Security Administ ration listing. The medical evidence of record indicates that the claimant retains the capacity to perform less than sedentary exertiona I tasks. The claimant's past work was: home healthc are, 354-377-014, 3M; cable television installer, 821.281-010, 5H; and, shi pping, 222.387-050, 5M. As such, the claimant would be unable to perform the duties associated with their past work. Likewise, the claimant's past work skills will not transfer to other occupations. Based on the claimant's vocational profile (44 years old, a high school equivalent education and a history of medium exertional, semi-skilled and skilled; and, heavy exertional, skilled employment), MA-P is approved using Vocational Ru le 201.00 (h) as a guide. Retroactive MA-P was considered in this cas e and is approved effective June, 2012. SDA is approved in accordance with BEM 261.

CONCLUSIONS OF LAW

The State Disability A ssistance (SDA) program which prov ides financial as sistance for disabled persons is established by 2004 PA 344. The Department of Hum an Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. D epartment polic ies are found in t he Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is estab lished by Title XI X of the Social Sec urity Act and is implemented by Title 42 of the C ode 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).

Because of the SHRT determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability, per BAM, Item 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically discappled under the Medical Assistance Program and the State Disability Assistance Program as of the September 15, 2012 application date and meets the definition of medically disabled for the Retroactive months of June, July and August, 2012 in accordance with the State Hearing Review Team decision.

Accordingly, the department is **ORDERED** to initiate a review of the application if it is not already done so, to determine if all other non -medical eligibility criteria are met. The department shall inform the claimant of the determination in writing.

A medical review should be scheduled for August, 2014. The department should check to see if claimant is in current payment status or not. If the claimant is in current payment status at the medical review no further action will be necessary. However, if the claimant is not in current payment status at the medical review, the department is to obtain updated application forms (DHS49) and obtain updated medical records.

It is ORDERED that t he department shall review this case in one year from the date of this Decision and Order.

Landis Y. Lair

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

Date Signed: July 17, 2013

Date Mailed: July 17, 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 reconsider ation on the Department's motion where the final decisi on cannot be implement ed 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 receipt of the Decis ion and Order or, if a timely request for r ehearing was made, within 30 days of the receipt date of the rehearing decision.

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