

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

IN THE MATTER OF:

Reg.

No: 2013-10255

Issue No: 2009

Case No:

Hearing Date: March 12, 2013

Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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, an in-person hearing was held on. Claimant was represented by [REDACTED]. Claimant appeared and provided testimony. The department witness was [REDACTED].

ISSUE

Did the department properly determine that Claimant did not meet the disability standard for Medical Assistance based on disability (MA-P)?

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 August 22, 2012, Claimant applied for MA-P and retro MA-P.
2. On September 11, 2012, the Medical Review Team (MRT) denied the claimant's application.
3. The department notified Claimant that he was denied MA-P benefits on September 13, 2012.
4. The department received Claimant's hearing request on November 7, 2012, protesting the denial of MA-P benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P benefits on January 4, 2013.
6. Claimant has a disability appeal pending with the Social Security Administration (SSA).

7. As of the date of hearing, claimant was a 47 year-old male standing 5'9" tall and weighing 180 pounds. Claimant completed high school and took some college classes. Claimant has received two automotive certifications, although they have since expired.
8. Claimant testified that he smokes about ½ pack of cigarettes per day, drinks alcohol on a social basis and does not use illegal drugs.
9. Claimant testified that he does have a driver's license and is able to drive.
10. Claimant is not currently working. He last worked in 2009 as an automotive dismantler for a junkyard for two months. Prior to that, the claimant worked as a carpenter for 12 years.
11. Claimant alleges disability on the basis of back pain, knee pain, congestive heart failure (CHF), atrial fibrillation and alcohol withdrawal.
12. Claimant presented to the hospital on July 3, 2012 with tremors, vomiting and diarrhea without fever. Claimant had recently stopped drinking and was active delirium tremens. Claimant was also found to be in atrial fibrillation. He was given Cardizem, metoprolol and Digoxin and he converted into sinus rhythm and remained in sinus rhythm. A July 5, 2012 Echocardiogram found normal left ventricle; anteroseptal hypokinesis; ejection fraction 40 +/- 5%; Doppler study shows trace of tricuspid regurgitation. A July 9, 2012 EEG was normal. On July 13, 2012 a psychiatric consultation recommended that he go into an inpatient alcohol abuse program and grief counseling. Claimant was discharged on July 15, 2012 and strongly counseled to quit alcohol.
13. On August 14, 2012, the claimant had a physical examination. Cardiovascularly, claimant had a normal rhythm, no edema, no rub or murmur. S1 and S2 were normal, S3 and S4 were not present. Peripheral pulses were normal. Deep tendon reflexes were normal. Sensory and motor function was normal. Range of motion of the upper and lower extremities as well as the spine was full. Claimant's strength and tone was normal. His gait and station was normal. There was no evidence of joint swelling or deformity. Claimant could ambulate without assistance. Claimant could heel, toe and tandem walk normal. He could get on and off the examination table without assistance. There was no muscle atrophy or dystrophy noticed.

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 Tables (RFT).

“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

When determining disability, the federal regulations 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).

...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).

...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).

...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 blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...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).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

In this case, the evidence on the record establishes that Claimant's primary impairment is substance abuse. Claimant was admitted to the hospital for alcohol abuse or for acute alcohol withdrawal. This Administrative Law Judge finds that Claimant's substance abuse problem compromises significantly his ability to engage in substantial gainful activity. There is no medically documented finding of any severe knee impairment or back impairment that would restrict the claimant's ability to participate in substantial gainful employment. The physical examination from August, 2012 was unremarkable. The claimant's hospitalization from July, 2012 was due to DTs that occurred when the claimant stopped drinking after drinking very heavily (admitting to as much as 30 beers plus vodka per day).

The federal law does not permit a finding of disability for persons whose primary impairment is substance abuse. P.L. 104-121. In addition, a client must follow prescribed medical treatment in order to be eligible for disability benefits. If prescribed medical treatment is not followed, the client cannot meet the disability standard. 20 CFR 416.930. Claimant has failed to follow prescribed medical treatment, including substance abuse treatment, and continues to treat himself with alcohol instead of substance abuse cessation.

Further, this Administrative Law Judge would neither find that the claimant met the second step requirement of duration of 12 months for MA purposes, as claimant's symptoms resolved once hospitalized with treatment. Therefore, claimant would also be denied MA-P at Step 2 of the analysis.

In conclusion, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the Department's MA-P decision is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined that Claimant did not meet the MA-P disability standard.

Accordingly, the department's MA-P decision is **AFFIRMED**.

/s/
Suzanne Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 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 receipt 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.

NOTICE: Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SLM/hj

cc:

