

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-17351
Issue No: 2009;4031
Case No: [REDACTED]
Hearing Date: March 21, 2013
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 to protest the denial of claimant's application for MA. After due notice, a telephone hearing was held on March 21, 2013. Claimant personally appeared and testified. The department was represented at the hearing by Eligibility Specialist, [REDACTED] and Assistance Payment Supervisor, [REDACTED].

ISSUE

Whether claimant meets the disability criteria for Medical 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:

1. On September 5, 2012, claimant filed an application for Medical Assistance, Retroactive Medical Assistance and State Disability Assistance benefits alleging disability.
2. On November 19, 2012, the Medical Review Team denied claimant's application stating that claimant could 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 Hearing Review Team again denied claimant's application stating in its analysis and recommendation: the

claimant underwent cervical discectomy and foraminotomy of C6-7 with insertion of prodisc at C6-7 in April, 2012. An EMG and nerve conduction study of the left upper limb in May, 2012 was nondiagnostic and within normal limits. There was no evidence of cervical radiculopathy or any other left upper limb peripheral 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 extremities and grip strength was intact at 5/5. On August 29, 2012, he underwent fusion 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 October, 2012, the claimant 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. Neurologically, he appeared to be intact. X-rays taken of his 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 neurological examination in October, 2012 showed the claimant's mental status was alert, oriented, fluent and appropriate. There was no dysarthria. Motor examination was full in the upper and lower extremity. Gait was with a walking boot. He does have chronic daily tension headaches. He had been started on a medication his previous visit and he noted that it did decrease his headaches somewhat. The doctor recommended he stay on the medication to have more time to get full effect. The claimant is not currently engaging in substantial gainful activity based on the information that is available in file. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of at least sedentary work. A finding about the capacity for prior work has not been made. However, this information is not material because all potentially applicable medical-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 equivalent and history of unskilled/semi-skilled work), MA-P is denied using Vocational Rule 201.27 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude 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 submitted and sent to the State Hearing Review Team on April 18, 2013.

8. On July 3, 2013, the State Hearing Review Team approved claimant for Medical Assistance and State Disability Assistance benefits stating the claimant's impairments/combination of impairments does not meet/equal the intent or severity of a Social Security Administration listing. The medical evidence of record indicates that the claimant retains the capacity to perform less than sedentary exertional tasks. The claimant's past work was: home health care, 354-377-014, 3M; cable television installer, 821.281-010, 5H; and, shipping, 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 Rule 201.00 (h) as a guide. Retroactive MA-P was considered in this case and is approved effective June, 2012. SDA is approved in accordance with BEM 261.

CONCLUSIONS OF LAW

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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).

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 disabled 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.

