

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-004522
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: October 7, 2014
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 7, 2014, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistance Payment Worker [REDACTED].

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

FINDINGS OF FACT

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

- (1) On March 10, 2014, Claimant filed an application for MA/Retro-MA and SDA benefits alleging disability.
- (2) On May 21, 2014, the Medical Review Team (MRT) denied Claimant's application for MA-P/Retro-MA, indicating Claimant could perform other work based.
- (3) On May 28, 2014, the Department sent Claimant notice that his application was denied.
- (4) On June 3, 2014, Claimant filed a request for a hearing to contest the Department's negative action.
- (5) On July 9, 2014, the State Hearing Review Team (SHRT) found Claimant was not disabled.

- (6) Claimant has a history of sciatica, spondylosis, arthritis high blood pressure, seizures, neuropathy, coronary artery disease, anemia, gastritis, two heart attacks, gastroesophageal reflux disease, chronic alcoholism, anxiety depression, and a panic disorder.
- (7) Claimant is a 49 year old man whose birthday is [REDACTED].
- (8) Claimant is 6'0" tall and weighs over 215 lbs.
- (9) Claimant has a college education.
- (10) Claimant does not have a nicotine or drug problem. Claimant is a recovering alcoholic and has been sober for 2 years.
- (11) Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Disability is defined as 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(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An

individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant has never been involved in substantial gainful activity. Therefore, he is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to sciatica, spondylosis, arthritis, high blood pressure, seizures, neuropathy, coronary artery disease, anemia, gastritis, two heart attacks, gastroesophageal reflux disease, chronic alcoholism, anxiety

depression, and a panic disorder. As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s).

On [REDACTED], Claimant underwent a consultation for his alcohol withdrawal and impending delirium tremens. Claimant had a history of alcohol abuse and was hospitalized the previous week and discharged on [REDACTED]. He began drinking and after 3 days he decided to quit. He started to have tremors, feeling anxious and because of a previous seizure, he presented to the emergency department. Claimant was admitted. He was anxious and jittery but not confused, agitated or combative. He provided a good history. He had not had any seizures since leaving the hospital on [REDACTED]. A slight tremor was present. Claimant was assessed with alcohol abuse with symptoms of withdrawal, hypertension, electrolyte imbalance, hyperglycemia, mild leukopenia and mild anemia probably associated with alcohol abuse.

On [REDACTED], Claimant was brought to the hospital because of a seizure and alcohol withdrawals. Claimant underwent a neurological consultation. He had run out of alcohol at home and was planning to buy some, but when he got out of the cab, he fell forwards and had a seizure. He stated he drinks 2 fifths of vodka a day. He has been treated for his alcoholism at [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Claimant had intention tremors of both hands with ataxia for finger to nose and heel to shin testing bilaterally. The neurosurgeon opined that his seizure was clearly provoked due to his alcoholism.

Claimant was admitted to the hospital on [REDACTED], for alcoholism and possible suicidality. A chest x-ray showed cardiomegaly without acute intrathoracic disease. Claimant underwent a psychiatric consultation on [REDACTED]. He was alert, oriented, and pleasant. His affect was appropriate in range. He denied any current suicidal ideation or plans. His insight and judgment were intact. It was recommended he continue his current antidepressants and discontinue one-to-one suicide precautions. He was discharged on [REDACTED].

On [REDACTED], Claimant walked into the emergency department reporting he had been drinking of lot of beers today. He appeared to be in moderate distress. He was ambulatory with a steady gait. He was emotionally labile. His alcohol level was 0.350. He complained of tremors and was administered Ativan and placed on a cardiac monitor.

On [REDACTED], Claimant was admitted to the hospital with lower chest and upper abdominal pain. A resting echocardiogram on [REDACTED], showed an ejection fraction of 60%, mitral annular calcification, physiologic pericardial effusion with no evidence of cardiac tamponade physiology. Doppler interrogation revealed trace pulmonic insufficient and there is mild mitral regurgitation by color flow imaging. The abdominal ultrasound was normal. Claimant was discharged on [REDACTED], with a diagnosis of upper gastrointestinal bleed secondary to exposed gastric vessel status post esophagogastroduodenoscopy with epinephrine injection and clipping, acute blood loss anemia, alcohol withdrawal with delirium tremens, alcohol abuse, tobacco abuse, hypertension, mild mitral regurgitation with normal ejection fraction of 60%, and gastritis and exudative esophagitis.

On [REDACTED], Claimant was admitted for alcohol withdrawal and chest pain. He was discharged on [REDACTED] with a diagnosis of: Alcohol withdrawal, chest pain and gastroesophageal reflux disease.

On [REDACTED], Claimant presented to the emergency department with chest pain and alcohol withdrawal. He was discharged last week on [REDACTED] from [REDACTED] in Dearborn after he was admitted with alcohol withdrawal and chest pain. His last drink was two days ago. He stated he drinks 2 fifths a day. He woke up yesterday with shakes, tremors and anxiety and he came to the emergency department. He was admitted with alcohol withdrawal and prevention protocol. There is no seizure disorder, but he is having some pain in the epigastric area and burning and heartburn. There is no palpitation, no dizziness, no nausea or vomiting. He has some tremors but no seizure activity. Impression: Alcohol withdrawal syndrome, alcoholism, gastroesophageal reflux disease (GERD), atypical chest pain secondary to GERD, history of depression and anxiety. Claimant was discharged on [REDACTED] in good condition, with a diagnosis of delirium tremens, depression, hypertension and GERD.

Claimant completed 90 days of continuous intensive residential substance abuse programming on [REDACTED]. Claimant's prognosis for ongoing abstinence was good with support from 12-step support groups, probation, alcohol and drug screening. Diagnosis: Axis I: Alcohol dependence; Axis II: Deferred; Axis III: Deferred; Axis IV: Legal, social; Axis V: Current GAF=[REDACTED] highest GAF in past year, [REDACTED]

On [REDACTED], Claimant underwent a psychiatric examination. Claimant had fair grooming and hygiene and was cooperative and pleasant during the interview. His mood was anxious and dysphoric. His affect constricted. Diagnosis: Axis I: Major depressive disorder, panic disorder without agoraphobia, alcohol dependence; Axis IV: occupational, housing, legal, and other psychosocial; Axis V: GAF=[REDACTED] The psychiatrist opined Claimant was capable of managing his own funds.

According to his Mental Residual Functional Capacity Assessment dated [REDACTED], Claimant is markedly limited in his ability to respond appropriately to change in the work setting. Claimant is moderately limited in his ability to remember locations and work-like procedures; maintain attention and concentration for extended periods; perform activities within a schedule, maintain regular attendance, and to be punctual within customary tolerances; work in coordination with or proximity to others without being distracted by them; complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods; interact appropriately with the general public, ask simple questions or request assistance, accept instructions and respond appropriately to criticism from supervisors; get along with co-workers or peers without distracting them or exhibiting behavioral extremes; be aware of normal hazards and take appropriate precautions; travel in unfamiliar places or use public transportation and to set realistic goals or make plans independently of others. Claimant is not significantly limited in his ability to understand and remember one or two-step instructions; understand and remember detailed instructions; carry out detailed instructions; sustain an ordinary routine without supervision; and make simple work-related decisions. Claimant has no evidence of limitations in his ability to carry out simple, one of two-step

instructions or maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness.

It should be noted there was no medical evidence supporting Claimant's complaints of sciatica or spondylosis, and the seizures according to the medical records were a result of Claimant's alcoholism.

Based on the medical evidence, Claimant has presented some evidence establishing that he does have some physical and mental limitations on his ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Claimant has alleged disabling impairments due to sciatica, spondylosis, arthritis high blood pressure, seizures, neuropathy, coronary artery disease, anemia, gastritis, two heart attacks, chronic alcoholism, gastroesophageal reflux disease, anxiety, depression, and a panic disorder.

Listing 1.00 (musculoskeletal system), Listing 4.00 (cardiovascular system), Listing 5.0 (digestive system), and Listing 12.00 (mental disorders) were considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) do not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled at Step 3. Accordingly, the Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by Claimant in the past. 20 CFR 416.920(f). Claimant's past work history is that of a supervisor for juvenile detention and as such, Claimant would be able to perform the duties associated with his past work. If Claimant had not been denied at Step 4, Step 5 of the sequential analysis would be required.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Claimant was 49 years old and was, thus, considered to be a younger individual for MA-P purposes. Claimant has a high school education. Disability is found if an individual is unable to adjust to other work. *Id.*

At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found

at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

In this case, the evidence reveals that Claimant suffers from high blood pressure, neuropathy, coronary artery disease, anemia, gastritis, two heart attacks, gastroesophageal reflux disease, chronic alcoholism, anxiety, depression, and a panic disorder.


Claimant testified that he has a limited tolerance for physical activities and is unable to stand or sit for lengthy periods of time. He stated he cannot be on his feet that long because of his back. He testified he can walk 2 blocks, stand for 5-10 minutes, sit for 20-30 minutes and pick up and carry no more than 5 pounds. He also stated he is anxious and unable to concentrate leading to panic attacks. He testified that he is a recovering alcoholic and has been sober for 2 years.

Based on Claimant's multiple hospitalizations for alcoholism and withdrawals in 2013, after he testified he has been sober for two years, and the lack of medical evidence supporting his claim of sciatica and spondylosis, this Administrative Law Judge finds Claimant's testimony less than credible.

In light of the foregoing, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis which includes the ability to meet the physical and mental demands required to perform at least light work as defined in 20 CFR 416.967(b). After review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 202.13, it is found that Claimant is also not disabled for purposes of the MA-P program at Step 5.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED**.



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

Date Signed: **12/12/2014**

Date Mailed: **12/12/2014**

VLA/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

