

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

IN THE MATTER OF:



Reg. No.: 201431450
Issue No(s): 4009
Case No.: [REDACTED]
Hearing Date: June 26, 2014
County: Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 June 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED].

ISSUES

Did the Department of Human Services properly determine that Claimant was unable to work for a period of 90 days or more and deny Claimant's October 29, 2013 application for 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. Claimant was born on [REDACTED]. Claimant is 5' 8" tall and weighs approximately 250 pounds. Claimant's formal education consists of 12 years of school.
2. Claimant reports relevant work history in construction concrete work and janitorial work.
3. Claimant asserts disability based on coronary artery disease with a bypass.
4. On October 23, 2013, Claimant applied for State Disability Assistance (SDA).

5. On February 21, 2014, the Department of Human Services Medical Review Team determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) based on disability or State Disability Assistance (SDA).
6. On February 25, 2014, Claimant was sent notice of the Department's determination that he was not eligible for State Disability Assistance Program benefits.
7. On March 4, 2014, Claimant submitted a request for hearing with regard to his State Disability Assistance Program eligibility.
8. On May 14, 2014, the State Hearing Review Team determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) based on disability or State Disability Assistance (SDA).

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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Disability determinations done by the State of Michigan, for State Disability Assistance (SDA), use the same standards as Medical Assistance based on disability with one minor difference. For State Disability Assistance (SDA) the medically determinable physical or mental impairments that prevent substantial gainful activity must result in death or last at least 90 days. In this case Claimant only applied for State Disability Assistance Program on October 29, 2013. The 90 day period at issue is between October 29, 2013 and January 27, 2014.

In accordance with the Federal Regulations an initial disability determination is a sequential evaluation process. The evaluation consists of five steps that are followed in a set order.

STEP 1

At this step a determination is made on whether Claimant is engaging in substantial gainful activity (20 CFR 416.920(b)). If you are performing activities for pay or profit, we will use 20 CFR 416.971 through 416.975 to evaluate the activities to determine if they are substantial gainful activity. Substantial gainful activity is defined as work activity: that is both substantial and gainful; and involves doing significant physical or mental activities. Gainful work activity is work activity that you do for pay or profit (20 CFR 416.972). If you are engaged in substantial gainful activity, you are not disabled

regardless of how severe your physical or mental impairments are and regardless of your age, education, and work experience.

Based on the evidence in the record and Claimant's testimony, Claimant has not received earnings as an employee since the date of application. Therefore, Claimant is not engaged in substantial gainful activity. Claimant is not found ineligible and the analysis proceeds to step two.

STEP 2

At the second step it is determined whether you have a severe physical or mental impairment that meets the duration requirement or a combination of impairments that is severe and meets the duration requirement (20CFR 416.920). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform 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:

Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;

Capacities for seeing, hearing, and speaking;

Understanding, carrying out, and remembering simple instructions;

Use of judgment;

Responding appropriately to supervision, co-workers and usual work situations;
and

Dealing with changes in a routine work setting.

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).

In addition to the limiting effect of the impairments they must also meet durational requirements of 90 days for State Disability Assistance (SDA). If we determine that your impairments are not severe, you are not disabled.

Claimant asserts disability based on coronary artery disease with a bypass. What follows is a synopsis of all relevant evidence in the record from medical sources during the 90 day period being considered between approximately October 29, 2013 and January 27, 2014. It is noted that Claimant had bypass surgery in July 2013.

There is a January 29, 2014 office visit report from PAC Steele. (Pages 16 & 17) Claimant reported off and on chest pain and pins and needles in his left ankle near the

vein harvest site of his bypass. The PAC found Claimant had normal heart sounds and oxygen saturation of 98%.

There is a December 30, 2013 catheterization procedure report from Dr. Keller. (New pages 1-6) The Doctor found that several areas of blockage and determined the best course of treatment was medical as opposed to mechanical.

There is a myocardial perfusion imaging study report from December 16, 2013. (Pages 23-25) Dr. Keller, Cardiologist, determined the imaging was abnormal. The Doctor found the abnormality suggestive of ischemia.

20 CFR 416.927

How we weigh medical opinions. Regardless of its source, we will evaluate every medical opinion we receive. Unless we give a treating source's opinion controlling weight under paragraph (d)(2) of this section, we consider all of the following factors in deciding the weight we give to any medical opinion.

Examining relationship. Generally, we give more weight to the opinion of a source who has examined you than to the opinion of a source who has not examined you.

Treatment relationship. Generally, we give more weight to opinions from your treating sources, since these sources are likely to be the medical professionals most able to provide a detailed, longitudinal picture of your medical impairment(s) and may bring a unique perspective to the medical evidence that cannot be obtained from the objective medical findings alone or from reports of individual examinations, such as consultative examinations or brief hospitalizations.

Supportability. The more a medical source presents relevant evidence to support an opinion, particularly medical signs and laboratory findings, the more weight we will give that opinion. The better an explanation a source provides for an opinion, the more weight we will give that opinion. Furthermore, because nonexamining sources have no examining or treating relationship with you, the weight we will give their opinions will depend on the degree to which they provide supporting explanations for their opinions.

Consistency. Generally, the more consistent an opinion is with the record as a whole, the more weight we will give to that opinion.

Specialization. We generally give more weight to the opinion of a specialist about medical issues related to his or her area of specialty than to the opinion of a source who is not a specialist.

The objective medical evidence has established that Claimant has an impairment, or combination thereof, that has more than a *de minimus* effect on Claimant's basic work

activities. Further, the impairments have lasted continuously for 90 days; therefore, Claimant is not disqualified from receipt of State Disability Assistance Program and the analysis continues.

STEP 3

At the third step, it is determined whether your impairments meet or equal the criteria of an impairment listed in a Social Security Administration impairment listing 20 CFR Part 404, Subpart P, Appendix 1. If your impairment meets or equals the criteria of a listing and meets the duration requirement, you are disabled.

Claimant's coronary artery disease was compared with the Social Security Administration impairment listing 4.04 Ischemic Heart Disorder. That listing involves events and symptoms within a 12 month time period. Because this analysis is for a 90 day time period there is no ability to make an accurate comparison.

STEP 4

At the fourth step, we assess your residual functional capacity to determine if you are still able to perform work you have done in the past. Your residual functional capacity is your remaining physical, mental, and other abilities. It is a description of your maximum performance at work-like activities considering your impairments. It does not require that you be pain free, but rather is based on your ability to do work-like activities on a sustained basis despite limitations, such as pain, from your impairments. 20 CFR 416.929 says that 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(s) which could reasonably be expected to produce the pain or other symptoms alleged.

Your residual functional capacity is determined by considering all symptoms and the extent to which they can reasonably be accepted as consistent with the objective medical evidence and other evidence. All relevant evidence including reported symptoms and medical opinions are considered as required in 20 CFR 416.927, 416.928, and 416.929.

Physical, mental, and other abilities are outlined as follows in 20 CFR 416.945.

Physical abilities. When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work.

Mental abilities. When we assess your mental abilities, we first assess the nature and extent of your mental limitations and restrictions and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to carry out certain mental activities, such as limitations in understanding, remembering, and carrying out instructions, and in responding appropriately to supervision, coworkers, and work pressures in a work setting, may reduce your ability to do past work and other work.

Other abilities affected by impairment(s). Some medically determinable impairment(s), such as skin impairment(s), epilepsy, impairment(s) of vision, hearing or other senses, and impairment(s) which impose environmental restrictions, may cause limitations and restrictions which affect other work-related abilities. If you have this type of impairment(s), we consider any resulting limitations and restrictions which may reduce your ability to do past work and other work in deciding your residual functional capacity.

Classifications of work based on physical exertion requirements are defined in 20 CFR 416.967.

(a) *Sedentary work*. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(b) *Light work*. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

(c) *Medium work*. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.

(d) *Heavy work*. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work.

Claimant asserts disability based on coronary artery disease. Consideration of your reported symptoms involves two parts. First is determining if there is any underlying medically determinable physical or mental impairment, shown by medically acceptable clinical and laboratory diagnostic techniques that could reasonably be expected to produce the symptoms you have reported.

Next all the medically supported symptoms you reported are evaluated. The credibility of the symptom's intensity, persistence, and limiting affects you reported, is considered in light of the entire case record.

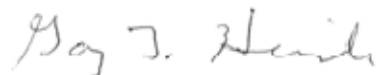
In this case the objective medical evidence shows that Claimant has been afflicted by blockages in the arteries of his heart since prior to his bypass surgery in July 2013. In December 2013 catheterization showed he still had blockage which was considered not amenable to revascularization. Considered on the whole, the medical evidence and opinions show your testimony regarding physical limitation to be credible. The physical limitations you described show you would not have the residual functional capacity to work during the period from October 2013 through January 2014. You were not capable of performing any of your past relevant work during that period nor any type of work. You are found eligible for State Disability Assistance Program benefits beginning from your October 29, 2013 application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly determine that Claimant was unable to work for a period of 90 days or more and denied Claimant's October 29, 2013 application for State Disability Assistance (SDA).

This Departmental action is **REVERSED**.

The Department is ORDERED to reinstate Claimant's October 29, 2013 State Disability Assistance Program application and process/approve it in accordance with the findings of this Decision and Order. Claimant's capacity for employment shall be re-determined in October 2014.



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

Date Signed: July 23, 2014

Date Mailed: July 23, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

GFH/hj

cc:

