

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

IN THE MATTER OF:



Reg. No.: 2014-9261
Issue No.: 2009, 4009
Case No.: [REDACTED]
Hearing Date: May 15, 2014
County: Grand Traverse-00

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

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, upon the Claimant's request for a hearing. After due notice, an in person hearing was held on May 15, 2014, from Traverse City, Michigan. Participants on behalf of the Claimant included the Claimant. Participants on behalf of the Department included [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

ISSUE

Did the Department properly deny Claimant's Medical Assistance and State Disability applications?

FINDINGS OF FACT

1. Claimant applied for MA-P and SDA on August 24, 2013.
2. The Medical Review Team denied the application on October 18, 2013.
3. Claimant filed a request for hearing on October 24, 2013, regarding the MA and SDA denials.
4. An in person hearing was held on May 15, 2014.
5. On January 10, 2014, the State Hearing Review Team denied the application because the medical evidence of record indicates that the Claimant retains the capacity to perform light exertional tasks and his past relevant work.
6. Claimant is 5' 8 1/2" inches tall and weighs 172 pounds.

7. Claimant is 60 years of age.
8. Claimant's impairments have been medically diagnosed as Parkinson's disease and coronary artery disease.
9. Claimant has the following symptoms: pain, fatigue, and shortness of breath
10. Claimant completed high school.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is not working. Claimant last worked in December 2008 as a retail sales associate. Claimant previously worked as a screen printer.
13. Claimant lives with his daughter.
14. Claimant testified that he cannot perform some household chores.
15. Claimant takes the following prescribed medications:
 - a. Metoprolol
 - b. Atenolol
 - c. Percocet
 - d. Gabapentin
 - e. Celexa
 - f. Nitro
16. Claimant testified to the following physical limitations:
 - i. Sitting: 90 minutes
 - ii. Standing: 10 minutes
 - iii. Walking: 200 feet
 - iv. Bend/stoop: difficulty
 - v. Lifting: 10 lbs.
 - vi. Grip/grasp: no limitations
17. Claimant testified to experiencing pain, at a high level of 9, on an everyday basis with some pain, always present, at a low level of 6.5.
18. Claimant completed an exercise stress echocardiogram in October 2013 that showed the following: "1. Abnormal stress echo with mild distal anteroeptal resting hypokinesia that appears worse with peak stress. 2. Left ventricular ejection fraction is 55%. 3. Mild concentric left ventricular hypertrophy. 4. Resting EKG demonstrated atrial fibrillation, with nonspecific ST-T wave changes. 5. Duke Treadmill Score represents intermediate risk for a future cardiac event. 5. Patient's aerobic functional capacity was below average."

19. In a consultative physical examination report the examining physician wrote the following under CONCLUSIONS: "1 Arrhythmia. The patient reports a recent history of a diagnosis of arrhythmia. At this time by exam he appears to be in atrial fibrillation as he is known to have an irregular, irregular pulse. At this time he does not describe any symptoms related to this other than the arrhythmia itself. He apparently has undergone extensive diagnostic work up including 2D echocardiography, 24-hour DCG and recent stress testing. Results of these would certainly be of interest to further shed light on this issue. 2. Tremor, probable milder with Parkinson's. The patient reports a history over a number of years of a tremor. At this time he does have a non-intention tremor in the upper extremities somewhat more prominent on the right than the left as well as a mild facial tremor. There also appears to be some minimal cog wheeling in the upper extremities although full use of the hands is noted. The patient is able to pick up a coin, button clothing and open doors with either hand. At this time the patient's gait is near normal although slight loss of associate movements in the arms is noted. He did not have difficulty with orthopedic maneuvers. Otherwise the neurological examination is not outside normal limits. Institution of medical management might be of benefit."

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA-P) 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 administers the MA-P 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 Program Reference Manual (PRM).

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P program. Under SSI, 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.

Federal regulations require that the Department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is, or is not, disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Claimant is not working. Therefore, the Claimant is not disqualified at this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is the severity of the impairment. In order to qualify the impairment must be considered severe, which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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. 20 CFR 416.921(b).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysis, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record does not support a finding that the Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listings 4.05 and 11.06 were considered.

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 clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities, or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CFR 416.913. A conclusory statement by a physician, or mental health professional, that an individual is disabled, or blind, is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.927.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, the Claimant's past employment was as a retail sales associate. Working as a retail sales associate, as described by Claimant at hearing, would be considered light work. The Claimant's impairments would not prevent Claimant from doing past relevant work. Claimant's testimony regarding his physical limitations was not supported by substantial medical evidence. Claimant failed to present substantial medical evidence that Claimant has an ongoing psychological impairment that is significantly limiting.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is NOT medically disabled for the purposes of MA-P and SDA eligibility.

Accordingly, the Department's decision is hereby **AFFIRMED**.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 9, 2014

Date Mailed: June 10, 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

ATM/nr

2014-9261/ATM

cc:

