

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

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, a telephone hearing was held on [REDACTED]. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application 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 [REDACTED] claimant filed an application for Medical Assistance, and State Disability Assistance benefits alleging disability. Claimant also filed an application for Retroactive Medical Assistance benefits on the same day.
- (2) On [REDACTED], the Medical Review Team denied claimant's application stating that claimant could perform other work pursuant to Medical Vocational Rule 202.15.
- (3) On [REDACTED], the department caseworker sent claimant notice that her application was denied.
- (4) On [REDACTED], claimant filed a request for a hearing to contest the department's negative action.

- (5) On [REDACTED], the State Hearing Review Team again denied claimant's application stating that there was insufficient evidence and requested a psychiatric evaluation.
- (6) The hearing was held on [REDACTED]. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) On [REDACTED], the State Hearing Review Team approved claimant for MA-P and SDA benefits and denied claimant's application for Retro MA-P benefits stating that the MRT determination can not fully support as they do not do a thorough evaluation of a psychiatric evaluations. Having said this, there determination of the claimant would have retained the ability to perform other work supported by the objective medical evidence. The evidence supports that the claimant would retain the ability to perform light exertional task of a simple and repetitive nature. [REDACTED] and prior denial of benefits is directed by Vocational Rule 202.13 as a guide. As of the claimant's 55th birthday per Social Security Administration standards of [REDACTED], benefits are awarded for MA-P and SDA citing Vocational Rule 202.13 as a guide. The claimant's impairments do not meet/equal the intent or severity of an appropriate Social Security listing. The medical evidence of record indicates that claimant retains the capacity to perform a light exertional range of simple and repetitive work. However, based upon the claimant's vocational profile of [REDACTED], at least high school education history of light unskilled work, MA-P is approved using Vocational Rule 202.04 as a guide effective [REDACTED]. SDA is approved in accordance with PEM261 as of [REDACTED]. This case needs to be reviewed for continuing disability benefits on [REDACTED].
- (8) On the date of hearing, claimant is a [REDACTED] woman whose birth date is [REDACTED]. Claimant is [REDACTED] pounds. Claimant attended 1 year of college and is a Licensed Practical Nurse. Claimant is able to read and write and has some basic math skills.
- (9) Claimant last worked in [REDACTED]. Claimant also worked as a staff nurse in a nursing home.
- (10) Claimant alleges as disabling impairments: back pain, left hand or wrist pain, pain in the knees, legs, asthma, bipolar disorder,

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

Because of the SHRT determination it not necessary for the Administrative Law Judge to discuss the issue of disability per program PAM Item 600. The department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done.

At Step 1, claimant is not engaged in substantial gainful activity and has not worked since 2009. Claimant is not disqualified from receiving disability at Step 1.

At Step 2, the SHRT has determined that claimant does have a severe impairment which has lasted or will last the duration of 12 months or more.

At Step 3, the medical evidence of claimant's condition does not give rise to finding that she would meet a statutory listing in the Code of Federal Regulations.

The SHRT determined that claimant did not retain the ability to perform her past role of work for purpose of the Retro-MA-P assistance application. Therefore, claimant was not disqualified from receiving disability at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not claimant has a residual functional capacity to perform some other less strenuous task than her prior job.

At Step 5, the burden of proof shifts to the department to establish that claimant does have residual functional capacity.

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance 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

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

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. 20 CFR 416.967(a).

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.... 20 CFR 416.967(b).

In the instant case, claimant has submitted insufficient medical objection evidence that she lacked a residual functional capacity to perform some other strenuous task and her prior employment was that she was physically unable to do light and sedentary task for purposes of the Retro MA-P assistance application pursuant to Medical Vocational Rule 202.13.

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 as the MA-P program and SDA program as of the [REDACTED] application date.

Accordingly, the department's decision is partially REVERSED. The department is ORDERED to initiate a review of the [REDACTED] is it is not already done to determine if all other non-medical eligibility criteria are met. This Administrative Law Judge needs to make an assessment of claimant's eligibility for Retro MA-P benefits separate from the State Hearing Review Team determination. The department shall inform the claimant of the determination in writing. This Administrative Law Judge adopts the State Hearing Review Team determination that claimant was able to perform light exertional task of a simple and repetitive nature and the Retro MA-P assistance application is DENIED pursuant to Vocational Rule 202.13.

The department is ORDERED to conduct a medical review for continued disability benefits in January 2012. At review, the following needs to be provided: prior medical packets; DHS-49, B, D, E, F, G; all hospital and treating source notes and test results; all consultative examinations including those purchased by the Social Security Administration/Disability Determination Service. Listings 1.03, 3.03, 4.04, 12.04, 12.09 were considered in this determination. The claimant's impairments do not meet/equal the intent or severity of an appropriate Social Security listing. The medical evidence of record indicates that claimant retains the capacity to perform a light exertional range of simple and repetitive work. However, based upon the claimant's vocational profile of 55 years old, at least high school education history of light unskilled work, MA-P and SDA are both approved using Vocational Rule 202.04 as a guide effective [REDACTED].

/s/ [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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 mailing 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.

[REDACTED]