

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

IN THE MATTER OF:



Reg. No: 201111004
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date
March 23, 2011
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on March 23, 2011. The Claimant appeared and testified.

ISSUE

Was disability medically established?

FINDINGS OF FACT

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

- (1) Claimant applied for MA/SDA on September 15, 2010, and was denied on October 14, 2010, per BEM 260/261 with a hearing request on November 10, 2010.
- (2) Claimant's vocational factors are: age 60, 12th grade education, and semiskilled/skilled sit-down job as a security monitor of homes and businesses, and laboratory specimen preparer for testing purposes (Medical Packet, Page 7).
- (3) Claimant is currently unemployed.
- (4) Claimant's last job terminated in March of 2010.
- (5) Claimant's disabling complaints are: Low back/leg pain and depression (Medical Packet, Page 3).

- (6) Medical Reports of exams done on [REDACTED], and [REDACTED] state the Claimant appears pleasant, and no apparent distress and well developed; that she is oriented to person, place and time; that mood and affect are normal and appropriate to the situation; that her gait and station exam reveals mid-position without abnormalities; and that inspection and palpitation of bone, joints, and muscles is unremarkable (Medical Packet, Pages 43, 45, and 47).
- (7) Medical report of exam done on [REDACTED], states the Claimant's range of motion of the hips are within normal limits; and that she is alert and oriented x3, and in no acute distress (Medical Packet, Page 255).
- (8) Medical Report of exam done on [REDACTED], states the Claimant's highest GAF of last year of 75, lowest GAF in last year of 53, and current GAF of 62 (Medical Packet, Page 261).
- (9) SHRT report dated January 24, 2011, states the Claimant's impairments do not meet/equal a social security listing (Medical Packet, Page 269).

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).

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).

The facts above are undisputed:

"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.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, the objective medical evidence of record establishes the Claimant's current unemployment. Therefore, disability is not denied at this Step.

At Step 2, the objective medical evidence does not establish a severe mental impairment meeting the one-year continuous duration requirement as defined above, based on the de minimus standard. To the contrary, the objective medical evidence establishes a non-severe mental impairment, as defined below.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months and 90 days for SDA. We call this the duration requirement. 20 CFR 416.909.

Non-severe impairment(s). 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(a).

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 --

- (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.
20 CFR 416.921(b).

The medical evidence above establishes a last year highest GAF of 75, lowest of 55, and current of 62. 55 is considered a person with moderate difficulties with occupational functioning, 62 mild difficulties, and 75 slight difficulties. Diagnostic and Statistical Manual of Mental Disorders (4th Edition- Revised).

At Step 2, the objective medical evidence does not establish a severe physical impairment meeting the continuous duration requirement, based on the de minimus standard, as defined above.

The medical evidence above establishes that the palpitation of the bones, joints, and muscles is unremarkable; that Claimant's gait was without abnormalities; that Claimant had normal range of motion of the back and hips. Therefore, disability is denied at this Step.

At Step 3, the Claimant's non-severe mental/physical impairment and lack of duration do not meet/equal a social security listing. Therefore, disability is not denied at this Step.

At Step 4, the objective medical evidence does not establish the Claimant's inability to do her past semiskilled/skilled sit-down security job monitoring homes and businesses or her laboratory technician job preparing specimens for testing purposes, despite her impairment(s). Therefore, disability is denied at this Step.

At Step 5, the objective medical evidence does not establish the Claimant is without a residual functional capacity for other work in the national economy, despite her impairments.

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...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. 20 CFR 416.945(c).

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very 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).

The medical evidence does not support the Claimant's disabling complaints above. When considering only the objective medical evidence, the Claimant has not established that she is without at least, a residual functional capacity for sedentary type work, as defined above. At this level, considering the Claimant's vocational profile (advanced age 60, high school education, and past semiskilled/skilled work experience) she is not considered disabled under Vocational Rule 201.08).

The department's program eligibility manual contains the following policy statements and instructions for caseworkers regarding the state disability assistance program: To receive state disability assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, Page 1. Because the Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that Claimant is unable to work for a period exceeding 90 days, the Claimant does not meet the disability criteria for state disability assistance benefits either.

Therefore disability, as defined above, has not been established by the preponderance of the medical evidence of record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that disability was not medically established.

Accordingly, MA/SDA denial is UPHELD.

/s/

William Sundquist
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 10, 2011

Date Mailed: May 10, 2011

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

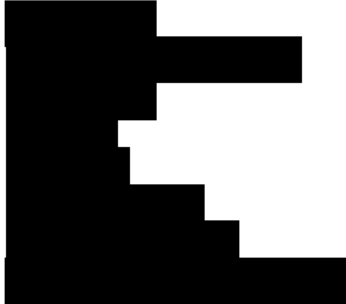
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Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

WAS /ar

cc:

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