

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

IN THE MATTER OF:

[REDACTED] Issue
[REDACTED]

Wayne

Reg. No: 2011-11721
No: 2009
Case No: [REDACTED]
Hearing Date:
April 27, 2011
County DHS-82

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on April 27, 2011. The Claimant appeared along with her mother [REDACTED] and both testified. Claimant's Authorized Hearings Representative, [REDACTED] through [REDACTED] also appeared. Charlotte Metcalf, FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's MA application?

FINDINGS OF FACT

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

1. Claimant applied for MA-P on October 14, 2010.
2. The Medical Review Team denied the application on October 28, 2010.
3. Claimant filed a request for hearing on December 16, 2010 regarding the MA denial.
4. A hearing was held on April 27, 2011.

7. On January 26, 2011 the State Hearing Review Team denied the application because Claimant's condition is improving or is expected to improve within 12 months from the state of onset or from date of surgery.
9. Claimant is [REDACTED] tall and weighs [REDACTED] pounds.
10. Claimant is [REDACTED] years of age.
11. Claimant's impairments have been medically diagnosed as lingering effects of injuries sustained in motor vehicle accident, including pain in her feet, legs, and hip, insomnia and depression.
12. Claimant completed the 12th grade and 2 years of college.
13. Claimant is able to read, write, and perform basic math skills.
14. Claimant is not currently working.
15. Claimant last worked as a [REDACTED]. The job duties included lifting up to 10lbs., standing, bending/stooping, grasping.
16. Claimant lives with her mother.
17. Claimant testified that she cannot perform some household chores, including vacuuming, emptying the dishwasher and laundry.
18. The Claimant's limitations have not lasted for 12 months or more and are not expected to last for 12 months.
19. Claimant was found to have a GAF of 57 on April 22, 2011.
20. A Mental Residual Functional Capacity Assessment was completed on April 22, 2010 by [REDACTED] Claimant's psychologist, and was found to be markedly limited in only one category "The ability to 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." Claimant was found moderately limited in 12 out of 20 categories.
21. Claimant takes the following prescribed medications
 - a. Robxin
 - b. Zoloft
 - c. Neurontin
22. On October 15, 2010 Claimant's treating surgeon completed a Medical Examination Report stating that Claimant can lift no weight, stand or walk less than 2 hours in an 8 hour day, and sit less than 6 hours in an 8 hour day.

Under Clinical Impressions he state she is improving and checked the box for temporary disability/date expected to return to work: "TBD".

23. On December 7, 2010 Claimant's treating surgeon completed a Medical Examination Report stating that Claimant can lift no weight, stand or walk less than 2 hours in an 8 hour day, and sit less than 6 hours in an 8 hour day . Under Clinical Impressions he state she is improving and checked the box for temporary disability/date expected to return to work: "est. 1yr."
24. On April 12, 2011 Claimant's treating surgeon completed a Medical Examination Report stating that Claimant can lift up to 10 lbs. occasionally , stand or walk less than 2 hours in an 8 hour day, and sit about 6 hours in an 8 hour day. Under Clinical Impressions he state she is improving.
25. Claimant testified to the following physical limitations:
- i. Sitting: 10-15 minutes
 - ii. Standing: 5-10 minutes
 - iii. Walking: 50 feet
 - iv. Bend/stoop: difficulty
 - v. Lifting: 10 lbs.
 - vi. Grip/grasp: no limitations
26. Claimant testified that she intends to enroll in college full time this fall.

CONCLUSIONS OF LAW

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

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence,

Federal regulations have delineated a set order entailing a step sequential process for evaluating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following factors:

The first factor to be considered is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 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 whether 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 1.01, and 11.18, 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 clerk. Working as a clerk would be considered sedentary work. The Claimant's impairments would not prevent her from doing past relevant work. Therefore, Claimant is not disabled. The Medical Examination Report completed by Dr. De Santis on April 12, 2011 supports a finding that Claimant is capable of performing her past relevant work at the sedentary exertional level. In addition all of the Medical Examination Reports show that Claimant has showed steady improvement since her accident. With continued steady improvement, Claimant clearly will be capable of performing her past relevant work within 12 months of the accident. It should be noted that Claimant intends to enroll full time in college courses in the fall, less than 1 year since her accident.

Claimant's mental impairments would not prevent Claimant from performing simple repetitive tasks at the sedentary level. Claimant testified at hearing regarding difficulties with memory, concentration, low energy and getting along with others but this Administrative Law Judge finds that Claimant's mental health symptoms would not preclude her from performing her past relevant work. It should be noted that Claimant was found to be markedly limited in only one category in the assessment by her psychologist.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is not disabled.

Accordingly, the Department decision to deny MA is hereby UPHeld.

Aaron Administrative For Department	<hr style="width: 100%;"/>	 McClintic Law Judge Maura Corrigan, Director of Human Services
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Date Signed: June 1, 2011

Date Mailed: June 1, 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 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.

AM/hw

cc:

