

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

IN THE MATTER OF:



Reg. No: 201112249
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date
March 24, 2011
Kent 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 24, 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) On August 27, 2010, the claimant applied for MA/SDA and was denied on December 14, 2010, per BEM 260/261 with a hearing request on December 17, 2010.
- (2) Claimant's vocational factors are: Age 32, GED, and semiskilled work as a bird seed packer standing/sitting by the assembly line, making sandwiches for a mobile catering service, bartending, and temporary jobs (Medical Packet, Page 6).
- (3) Claimant is currently unemployed.
- (4) Claimant's last job terminated in 2007 because of being fired by the employer.
- (5) Claimant's disabling complaints are post traumatic stress disorder, bipolar disorder, and psychotic disorder (Medical Packet, Page 3).

- (6) Claimant's physician does not restrict her from work.
- (7) Medical report of exam on November 30, 2009, states the claimant is awake, alert and interactive with myself (Medical Packet, Page 14).
- (8) Medical report of exam done on June 21, 2010, regarding diagnosis of post traumatic stress disorder and cannabis dependence states the claimant's GAF of 58 (Medical Packet, Page 47).
- (9) SHRT report dated January 25, 2011, states the claimant's impairments do not meet/equal a social security listing (Medical Packet, Page 49).

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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or

- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

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 evidence of record establishes the claimant's current unemployment. Therefore, disability is not denied at this Step.

At Step 2, the objective medical evidence of record does not establish that the claimant is significantly limited in performing basic mental work activities, as defined below. To the contrary, the 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 objective medical evidence shows that the claimant is awake, alert and interactive with people. During the hearing she responded to questions by the ALJ. She was able to understand, remember and respond to questions. Also, the medical evidence established a GAF of 58. This is considered a non-severe mental impairment with moderate difficulty with occupational functioning. Diagnostic and statistical manual of mental disorders (4th Addition-Revised).

Therefore, disability is denied at this Step.

At Step 3, the objective medical evidence of record does not establish the claimant's non-severe mental impairment meets/equals a social security listing. Therefore, disability is not denied at this Step.

If disability had not already been denied at Step 2, it would be denied at Step 4. At Step 4, the medical evidence of record does not establish the claimant's inability to do her past jobs stated above. Therefore, disability is denied at this Step.

If disability had not been already denied at Steps 2 and 4, it would be denied at Step 5. At Step 5, the medical evidence of record does not establish that the claimant has no residual functional capacity for other work in the national economy, despite her mental limitation.

...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).

Claimant's testimony that she has no residual functional capacity, based on her disabling complaints above (see Fact #5) for any work is not supported by the objective medical evidence of record. When considering only the objective medical evidence of record, the claimant would be able to perform, at least, sedentary type work. At this level, considering the claimant's vocational profile (younger individual age 32, GED, and semiskilled work experience) she is not considered disabled under Vocational Rule 201. 28. Therefore, disability has not been established under Steps 2, 4 and 5.

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: April 18, 2011

Date Mailed: April 20, 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.

WAS [REDACTED]

cc: [REDACTED]