

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

IN THE MATTER OF:



Reg. No: 201115205
Issue No: 2009;4031
Case No: [REDACTED]
Hearing Date: May 3, 2011
Saginaw 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, an in-person hearing was held on May 3, 2011. The claimant appeared and testified.

Medical reports (Claimant Exhibit A) submitted at the hearing delayed the Decision and Order below.

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 as material fact:

- (1) Claimant is currently unemployed.
- (2) Approximately 2 years ago the claimant was fired from her last job.
- (3) Claimant's vocational factors are: age 49, 11th grade education, and past work experience as skilled greenhouse worker planting flowers and waiting on customers, copy machine operator, maintenance of clothing racks at Meijer's retail store, bowling ally snack bar worker; semi-skilled restaurant waitress and elderly caregiver.

- (4) On July 6, 2010, the claimant applied for MA/SDA, was denied on October 26, 2010, per BEM 260/261, and requested a hearing on January 7, 2011.
- (5) Claimant alleges disability due to depression, brain atrophy, malnutrition, and dislocated left hip (Medical Packet, p. 191).
- (6) Medical exam on [REDACTED], states the claimant has moderate bi-frontal cortical atrophy disproportionate for claimant's age; and that otherwise, no acute intracranial abnormality identified (Claimant Exhibit A, p. 1).
- (7) On [REDACTED], the claimant was admitted with alcohol withdrawal and seizures with a GAF of 45 (Medical Packet, pgs. 128 and 133).
- (8) ON [REDACTED], the claimant was admitted with blood alcohol level of .49% and diagnosis of acute alcohol intoxication and acute closed head injury (Medical Packet, p. 23).
- (9) On [REDACTED], the claimant was admitted based on diagnosis's of major depression and alcohol dependence with a GAF score of 25; and that on [REDACTED], she was discharged with the same diagnosis with a GAF score of 55 (Medical Packet, pgs. 4 and 7).
- (10) Medical exam on [REDACTED], states that claimant was oriented to time, place, and person (Claimant Exhibit A, p. 22).
- (11) Medical exam on [REDACTED], states the claimant's judgment and insight are intact; and that she is oriented to time, place, and person (Claimant Exhibit A, p. 24).
- (12) Medical exam on [REDACTED], states the claimant has advanced degenerative changes of the left hip; and that mentally she is anxious (Claimant Exhibit A, p. 7).
- (13) SHRT report dated February 11, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, p. 191).

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 evidence establishes that the claimant is not currently engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record establishes that the claimant is significantly limited in performing basic mental/physical work activities, as defined below, but not for the required continuous duration stated below based on a mental impairment.

...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. 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).

On [REDACTED], the claimant was admitted with alcohol withdrawals/seizure and a GAF of 45. And on [REDACTED] she had a diagnosis of acute intoxication; and on [REDACTED], she was admitted with a GAF of 25 and discharged with a GAF of 55.

Persons with GAF scores below 51 are considered occupationally severely impaired. And above 51 is considered non-severe impaired occupational functioning. The evidence shows that when claimant consumes alcohol she has a severe mental impairment and vice-versa. So the evidence does not establish the one year continuous duration for a severe mental impairment.

Therefore, disability is denied at this step for a mental impairment, but not for the physical impairment. Therefore, disability is not denied at this step.

At Step 3, the objective medical evidence does not establish the claimant's impairments meet/equal a Social Security listing.

At Step 4, the objective medical evidence does not establish the claimant's inability to do any of her past work, despite her severe mental/physical impairment for the required one year continuous duration. Her past work as a copy machine operator, greenhouse planting and waiting on customers, and the Meijer clothing rack job would fall within her mental limitations. Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish that the claimant is without a Residual Functional Capacity (RFC) for other work in the national economy.

...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).

...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).

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/ar

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