

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-27010
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: July 6, 2011
St. Clair 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 July 6, 2011.

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 is currently unemployed.
2. In November 2003, the claimant was laid off from her last job.
3. Claimant's vocational factors are: age 38, 9th grade education, and past work experience as an unskilled factory press operator requiring the standing/sitting while taking parts out of the machine and placing them in a box, and semi-skilled restaurant waitress.
4. On February 11, 2011, the claimant applied for Medicaid/SDA, was denied on March 15, 2011 per BEM 260/261 and requested a hearing on March 25, 2011.
5. Claimant alleges disability due to herniated discs, bipolar disorder, anxiety and post-traumatic stress disorders.

6. Medical exam on February 5, 2010, states the claimant's current GAF score of 48 (Medical Packet, page 28).
7. Medical exam on October 22, 2010, states the claimant's mental residual functional capacity assessment. The claimant is not significantly limited in the ability to understand and remember one or two-step instructions, carry out simple one of two-step instructions, be aware of normal hazards and take appropriate precautions, and set realistic goals or make plans independently of others; and that she is moderately limited in ability to remember locations and work-like procedures, carry out detailed instructions, maintain attention and concentration for extended periods, perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, sustain an ordinary routine without supervision, work in coordination or proximity to others without being distracted by them, interact appropriately with the general public, ask simple questions or request assistance, accept instructions and respond appropriate to criticism from supervisors, get along with coworkers or peers without distracting them or exhibiting behavioral extremes, maintain socially appropriate behavior and to adhere to basic standards in neatness and cleanliness, respond appropriate to change in work setting (Medical Packet, pages 25 and 26).
8. Medical exam on February 11, 2011, states the claimant's mental residual functional capacity assessment that she is not significantly limited in ability to carry out simple one of two-step instructions, sustain ordinary routine without supervision, make simple work-related decisions, interact appropriate with the general public, ask simple questions or request assistance, maintain socially appropriate behavior and to adhere to basic standards in neatness and cleanliness, and to be aware of normal hazards and take appropriate precautions; that she is moderately limited in ability to remember locations and work-like procedures, understand and remember one or two-step instructions, carry out detailed instructions, perform activities within a schedule, maintain regular attendance and be punctual within customary tolerances, work in coordination with or proximity to others without being distracted by them, accept instructions and respond appropriate to criticism by supervisors, get along with coworkers or peers without distracting them or exhibiting behavioral extremes, and respond appropriately to change in the work setting, and travel to unfamiliar places or use public transportation (Medical Packet, pages 43A and 43B).
9. SHRT report dated May 11, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 51).

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).

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 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 work activities but not for the required duration stated below.

The objective medical evidence of record does not establish a severe physical impairment for the required continuous duration stated below.

...[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).

Therefore, disability is denied at this step based on mental/physical duration.

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

If claimant had not already been denied disability at Step 2, she would be denied 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. Therefore, disability is denied at this step.

If the claimant had not already been denied disability at Steps 2 and 4, she would also be denied at Step 5. The objective medical evidence does not establish that the claimant is without a residual functional capacity 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).

Claimant's disabling complaints above that she has no residual functional capacity for any work is not supported by the objective medical evidence of record. Sedentary work, as defined above, falls within the claimant's residual functional capacity. At this level, considering the claimant's vocational profile of a younger individual (age 38, 9th grade

education, and past unskilled/semi-skilled work experience) she is not considered disabled under Vocational Rules 201.24 and 201.25. Therefore, disability is denied at Steps 2, 4, and 5.

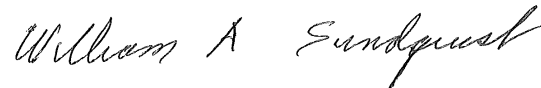
The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. PEM, Item 261, p. 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, the claimant has not established disability as defined above, by the necessary competent, material and substantial evidence on the whole 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, Medicaid/SDA denial is UPHELD.



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

Date Signed: July 25, 2011

Date Mailed: July 26, 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 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.

WAS/tg

2011-27010/WAS

cc:

