

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]

Reg. No. 2011-29240
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: July 27, 2011
Gladwin 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 27, 2011.

Medical reports (Claimant Exhibit A) submitted after the hearing for a second SHRT review delayed the D&O below.

ISSUE

Was a severe mental/physical impairment expected to last for a **continuous** one year duration 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 has not worked since June 2009.
2. In June 2009, claimant quit her last employment.
3. In June 2009, claimant alleges that she became unable to do any past work or any other work due to a lung mass, degenerative back, shoulder injury, depression, anxiety, posttraumatic stress disorder, and Raynaud's phenomenon.
4. On November 1, 2010, the claimant applied for Medicaid/SDA and was denied on January 11, 2011 per BEM 260/261, and requested a hearing on April 8, 2011.

5. Claimant's vocational factors are: age 48, high school plus education, and past work history as a semi-skilled retail store cashier, skilled retail customer service representative, and [REDACTED] clerk and mail sorter.
6. Medical exam on October 26, 2010 states the claimant's condition is improving; and that she is oriented to time, place and person; and that mood and affect were within normal limits (Medical Packet, pages 15 and 17).
7. Medical exam on March 15, 2011 states the claimant's GAF score of 48 (Medical Packet, page 184).
8. Medical exam on April 6, 2011 states that the claimant has the ability to sit, stand, stoop, carry, push, pull, button clothes, tie shoes, dress, undress, dial telephone, open door, make a fist, pick up coin, pick up pencil, write, squat, and arise from squatting, get on and off the examining table, and climb stairs; that she can walk on heels and toes; that gait is stable within normal limits; that she does not need a walking aid; and that her grip strength is 5/5; that she can walk about two miles, stand about an hour and sit about 30 minutes; that she can lift less than ten pounds with the right arm and has no problems lifting with the left arm; that her immediate, recent and remote memory is intact with normal concentration; that her insight and judgment are both appropriate; that there is no evidence of joint laxity or effusion; that there is crepitation over the right AC joint with tenderness; that grip strength remains intact; that dexterity is unimpaired; that she could pick up a coin and open a door; that she had no difficulty getting on and off examination table, no difficulty heel and toe walking, mild difficulty squatting, and no difficulty standing on either foot; that range of motion studies were normal for the cervical spine, dorsal lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, hands, fingers; that cranial nerves are intact; that motor strength and tone are normal; that sensory is intact to light touch and pinprick; that Romberg testing is negative; that she walks with a normal gait without the use of an assistive device; that her overall degree of impairment appears mild; the prognosis is fair but unstable (Medical Packet, pages 172 to 176).
9. Medical exam on June 27, 2011 states that claimant has a slight joint effusion in her knee; that she has slight varus deformity; that she has a positive Lachmen and anterior drawer is also positive; that medial and lateral ligaments are intact; and that she has near full range of motion; and that this knee is going too slowly to deteriorate over the next number of years and will need treatment for arthritis (Claimant Exhibit A, page 140).
10. SHRT report dated May 5, 2011 states the claimant's impairments do not meet/equal the Social Security Listing (Medical Packet, page 188).

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 Bridges Administrative Manual (PAM), the Bridges Eligibility Manual (PEM) and the Bridges 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

When determining disability, the federal regulations are used as a guideline and 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 of record establishes that claimant has not been engaged in substantial gainful work since June 2009. 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/physical work activities, as defined below, for the required duration stated below of one **continuous** year.

...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).

The claimant has the burden of proof to establish that she has a severely restricted mental or physical impairment that has lasted or can be expected to last for the duration of at least one **continuous** year. There is insufficient objective medical evidence in the record that claimant suffers a severely restricted mental or physical impairment for that required duration.

The medical evidence of record establishes that the claimant had a GAF score of 48 in March 2011. This is considered a severe mental impairment with occupational functioning. [REDACTED] [REDACTED]). But, there was no evidence of addressing the durational requirement of one continuous year.

There was no medical assessment reports introduced by the claimant addressing any physical work limitation/restrictions.

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, 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.

Before, on and after date of application, the claimant was a UCB recipient.

In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. They must be totally or partially employed. They must have an approvable job separation. Also, they must meet certain legal requirements which include being physically and mentally able to work, being available for and seeking work, and filing a weekly claim for benefits on a timely basis. This Administrative Law Judge finds that claimant has not established that she has a severe impairment or combination of impairments which have lasted or will last the durational requirement of 12 months or more or have kept her from working for a period of 12 months or more.

Therefore, disability is denied at Step 2.

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

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

Date Signed: November 10, 2011

Date Mailed: November 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 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

cc:

