

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201146849
Issue No: 2009
Case No: [REDACTED]
Hearing Date: December 6, 2011
Bay 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 Tuesday, December 6, 2011. Claimant appeared with her authorized [REDACTED], [REDACTED]

ISSUE

Did Claimant, on date of application, establish she has a severe mental/physical impairment that had lasted or was expected to last for a one year **continuous** duration?

FINDINGS OF FACT

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

1. On September 23, 2010, Claimant ended her last job and became an unemployment compensation benefit recipient (UCB) with an expiration dated on December 31, 2011.
2. On February 23, 2011, Claimant applied for MA-P (and 3 months retro) based on diagnosed impairments of arteriosclerosis, hypertension, high blood pressure, borderline diabetes, depression, anxiety and insomnia, was denied on April 27, 2011 per BEM 260, and requested a hearing on July 5, 2011.
3. Claimant is age 43, with a high school plus education, and work history as a semi-skilled/skilled [REDACTED] for [REDACTED], and [REDACTED].

4. Psychological exam on July 5, 2011, states the Claimant's **current** GAF score of 49 (medical packet, page 289).
5. Medical exam on July 20, 2011, states the Claimant is able to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress/undress, dial telephone, open door, make a fist, pickup coin, pickup pencil, write, squat and arise from squatting, get on and off examination table, climb stairs; that she can walk on heels and toes; that her gait is stable and within normal limits; that she needs no assistive device for walking; and that her grip strength is 5/5 (medical packet, pages 277-278).
6. Medical exam on July 20, 2011, states that the Claimant is cooperative and answering questions and following commands; that her immediate, recent and remote memory is intact with normal concentration; that Claimant's insight and judgment are both appropriate; that her range of motion is normal for the cervical spine, dorsolumbar spine, shoulders, elbows, hips, knees, ankles, wrists, hands-fingers; that physically her overall degree of impairment appears mild to moderate; and that prognosis is fair but not declining (medical packet, pages 280-283).

CONCLUSIONS OF LAW

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 (BAM), the Program Eligibility Manual (BEM) 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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

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, disability is not denied. The evidence of record establishes that the claimant has not worked since September 23, 2010.

At Step 2, disability is denied. The medical evidence of record establishes a severe mental impairment, but not for the required one continuous year, as defined below. The medical evidence of record does not establish that the Claimant is significantly physically impaired from performing basic work activities for the required one continuous duration, as defined below.

Severe 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).

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 medical evidence of record establishes the Claimant's **current** GAF score of 49 in July 2011. 50 and under are considered person's who have serious mental impairment and difficulty with job-functioning. 51 and over is considered a non-severe impairment with job functioning. The score of 49 was current for July 2011. There was no medical evidence of record establishing the one year continuous duration, as defined above.

Most of the medical reports of record were examination, diagnostic or treatment reports and did not provide medical assessments of Claimant's work limitations/restrictions. The physical assessment report in July 2011, clearly establish that the Claimant was not significantly limited in performing physical work activities.

In addition, claimant does receive unemployment compensation benefits. In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. They must be totally or partially unemployed. 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. Claimant did last work on September 23, 2010. Claimant does receive unemployment compensation benefits as of December 2010 with an expiration date December 31, 2011.

Also, Claimant admitted that she could probably do her past work in a non-manager type environment.

Therefore, disability as defined above, is denied at Step 2 based on the 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 denial is **UPHELD**.

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

Date Signed: May 4, 2012

Date Mailed: May 7, 2012

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.

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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/tb

cc:

