

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201154005
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: December 15, 2011
Livingston 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 Thursday, December 15, 2011. Claimant appeared with his authorized [REDACTED].

Medical reports (Claimant Exhibit A) submitted at the hearing delayed the D&O below.

Continuance of the hearing to obtain additional medical reports was denied for lack of good cause per BAM 600.

ISSUE

Did Claimant, on date of application, establish a severe mental 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 November 15, 2011, Claimant ended his last employment due to an alleged medical condition.
2. In 2006, Claimant alleges onset of disability due to schizophrenia and dysthymia (Medical Packet, Page 19).
3. Medical exam on June 14, 2011, states the Claimant's mental condition was logical, with adequate memory and problem solving; and that his condition was stable (Medical Packet, Page 6).

4. Medical exam on June 14, 2011, states the Claimant's current GAF score of 50 and last year as unknown (Medical Packet, Page 12).
5. Mental residual functional capacity assessment report on June 14, 2011, states that the Claimant has no evidence of limitation in ability to remember locations and work-like procedures, understand or remember 1 or 2 step instructions, carry out simple 1 of 2 step instructions, carry out detailed instructions, travel in unfamiliar places or use public transportation, and set realistic goals or make plans independently of others; that he is not significantly limited in ability to understand and remember 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, make simple work-related decisions, complete a normal work day and work sheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length or rest periods, ask simple questions or request assistance, respond appropriate to change in the work setting, and be aware of normal hazards and take appropriate precautions; and that he is moderately limited in ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, work in coordination within proximity to others without being distracted by them, interact appropriate with the general public, 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 of neatness and cleanliness (Medical Packet, Pages 17-18).
6. Medical exam on June 14, 2011, states that the Claimant can work at any job with limitations; and that he may have difficulty with peers or public (Medical Packet, Page 19).
7. On August 8, 2011, Claimant applied for MA-P/SDA; he was age 49, with a college education, and work experience as a semi-skilled telemarketing worker, and skilled work as an inspector of plastic injections molding parts, and Engineer Tool Designer Draftsman (Medical Packet, Page 15).
8. Medical exam on August 16, 2011, states the Claimant remembers due dates, paper work procedures, and processes; and that his condition is stable (Medical Packet, Page 8).
9. Medical exam on August 16, 2011, states that the Claimant understands directions, procedures, deadlines, and adequate memory is complete; and that his condition is stable (Medical Packet, Page 10).

10. Medical exam on August 16, 2011, states a current GAF score of 50 and last year as unknown (Medical Packet, Page 15).

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

The claimant has the burden of proof to establish disability as defined above by the preponderance of the evidence of record and in accordance with the 5 step process below. 20 CFR 416.912(a).

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).

Disability is not denied at Step 1. The evidence of record establishes that the claimant has not been engaged in substantial gainful work on date of application, nor currently.

Disability is denied at Step 2. The medical evidence of record does not establish, on date of application, that the claimant's alleged disability impairments were severe and significantly limited his mental/physical ability to do basic work activities, as defined below, for a required one year continuous duration, as defined below.

Severe/Non-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).

Medical evidence of record established the claimant's GAF scores of 50 in June and August 2011 with unknown scores of the past years. 50 is considered a borderline severe/non-severe mental impairment with job-functioning. And diagnosis of Dysthymia is characterized by a chronic mild depressive syndrome that has been present for many years. DSM-IV (4th edition-revised).

The medical reports of record are mostly examination, diagnostic and treatment reports. They do not provide medical assessments of claimant's work limitations/restrictions in order to determine whether or not the claimant has a severe impairment or non-severe impairment relative to inability to perform basic work activities, as defined above. Stated differently, these reports do not establish whether the claimant has a slight, mild, moderate (non-severe impairment) or a severe impairment, as defined above. 20 CFR 416.913(c)(1) and (2).

Duration of Impairment

You cannot be determined disabled without medically establishing the duration requirement, as defined 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.

The medical evidence of record, on date of application, does not establish a severe mental impairment that had lasted or was expect to last for a 1 year **continuous** duration.

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.

Therefore, disability has not been established at Step 2 as defined above by the competent, material and substantial material 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**.

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

Date Signed: April 25, 2012

Date Mailed: April 25, 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.

201154005/WAS

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:

