

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20117327  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date February 9, 2011  
Marquette 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 February 9, 2011. The claimant appeared and testified.

**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 2001, the claimant quit his last job because of seizures.
- (3) Claimant's vocational factors are: age 44, 12<sup>th</sup> grade education, and past work experience as an unskilled deliverer of news papers to individual carriers, motel housekeeper, and semi-skilled cashier, clerk, and stocking shelves for a gas service station.
- (4) On June 30, 2010, the claimant applied for MA, was denied on August 16, 2010, per BEM 260, and requested a hearing on November 12, 2010.
- (5) Claimant's disabling physical complaints are: heart condition, seizure disorder, COPD, emphysema, and learning disability.
- (6) Medical exam on [REDACTED], states the claimant is alert, oriented x3, and is in no acute distress; that, regarding cardiovascular, she has a regular rate and rhythm; that there are no murmurs, rubs, or thrills; that, regarding pulmonarily, there is clear to auscultation bi-laterally; that there is normal

respiratory efforts; and that there is rhonchi or rales heard; that her motor strength is 5/5 in her extremities; and that sensory function is intact to light touch throughout (Medical Packet, pages 39 and 40).

- (7) Medical exam on [REDACTED], states the claimant's cardiac silhouette and pulmonary vasculature is within normal limits; that there is no evidence parenchymal disease or acute cardiopulmonary disease (Medical Packet, page 42).
- (8) Medical exam on [REDACTED], states the claimant's cardiac showed a regular rhythm; that there was a normal S1 and S2; that there was no heardable S3, S4, murmur, rub, click, heave, or thrill; and neurologically she is alert and oriented x3; and that she answered questions appropriately (Medical Packet, page 16).
- (9) Medical exam on [REDACTED], states the claimant is cooperative in answering questions and following commands; that her immediate, recent and remote memory is intact with normal concentration; that insight and judgment are appropriate; that there was no evidence of joint laxity, crepitation, or effusion; that grip strength remains intact; that dexterity is unimpaired; that claimant could button clothing and open a door; that she had no difficulty getting on and off the examination table, no difficulty heel and toe walking, no difficulty squatting, and no difficulty hopping; that straight leg raising is negative; that ROM test are normal for the cervical spine, lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, hands-fingers; that she walks with a normal gait without use of an assistive device; that there was no finding of heart failure; that she had mild to **moderate** chronic bronchitis; that she had normal focal neurological deficit; that she has the current ability to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open doors, making fist, pick up coin, pick up pencil, write, squat and arise from squatting, get on and off an examining table, climb stairs; and that gait is stable and within normal limits; and that she needs no aid for walking (Medical Packet, Pages 100-105).
- (10) SHRT report dated December 9, 2010, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 107).

### **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 (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.

At Step 2, the objective medical evidence of record does not establish that the claimant is significantly limited in performing basic mental activities, as defined below, but is

significantly limited in performing basic physical work activities, based on the *de minimus* standard and for the required duration stated below.

...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

Therefore, disability is not denied at this step.

At Step 3, the objective medical evidence does not establish that the claimant's physical 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 impairment. Her past work as a clerk and cashier fall within her medical limitations. Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish 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).

Claimant's disabling complaints above that she has no RFC for any work is not supported by the objective medical evidence of record. Her medical limitations fall within the definition of sedentary work activities, as defined above. Therefore, the claimant would be able to perform, at least, sedentary work. At this level, considering the claimant's vocational profile (younger individual, age 44, high school graduate, and past unskilled/semi-skilled work experience) she is not considered disabled under Vocational Rules 201.27 and 201.28. Therefore, disability is denied at steps 4 and 5.

Therefore, the claimant has not established disability, as defined above, based on 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, MA denial is UPHELD.

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

Date Signed: June 3, 2011

Date Mailed: June 6, 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 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

cc:

