

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

IN THE MATTER OF:



Reg. No: 20117601
Issue No: 4031
Case No: [REDACTED]
Hearing Date: February 10, 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, a telephone hearing was held on February 10, 2011. The claimant appeared and testified.

Medical reports (Claimant Exhibit A) submitted at the hearing for a second SHRT review delayed the Decision & Order below.

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 as material fact:

- (1) Claimant is currently unemployed.
- (2) In June 2009, the claimant ended her last job.
- (3) Claimant's vocational factors are: age 35, 2 years of college, and past work experience as an unskilled customer car surveyor by phone, putting boxes on pallets for FedEx, making sandwiches at Subway; and semi-skilled work unloading boxes with a fork lift truck for Home Depot.

- (4) On September 13, 2010, claimant applied for SDA, was denied on November 4, 2010, per BEM 261, and requested a hearing on November 10, 2010.
- (5) Claimant alleges disability due to anxiety, post traumatic stress disorder, and bipolar disorder.
- (6) Medical exam on [REDACTED], states the claimant's GAF score of 50 with a diagnosis that includes alcohol abuse (Medical Packet, p. 35).
- (7) Psychiatric evaluation on [REDACTED], states the claimant reported that she is only able to work 18-20 hours a week because her anxiety prevents her from working more; that she has some insight; that judgment is extremely impaired when intoxicated; that cognition is grossly intact; and that she has a GAF score of 40 with a diagnosis that includes alcohol abuse (Medical Packet, p. 55).
- (8) Psychiatric evaluation on [REDACTED], diagnosed the claimant with a bipolar disorder most recently episode depressed, post traumatic stress disorder, and a GAF score of 42 based on a diagnosis that included alcohol dependency (Medical Packet, p. 60).
- (9) Claimant was admitted on [REDACTED], with a diagnosis of bipolar mood disorder and a GAF score of 35-40. She was discharged with a GAF score of 52 (Claimant Exhibit A, p. 3).
- (10) Psychiatric evaluation states the claimant's speech is spontaneous and coherent; that mood is some what emotional, crying during the interview and also tends to get agitated easily; that attention and concentration are poor and so is her judgment and insight (Claimant Exhibit A, p. 5).
- (11) SHRT report dated December 10, 2010, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, p. 87).

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 facts above are undisputed:

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. BEM, Item 261, p. 1.

When determining disability, the federal regulations as a guideline 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,

At Step 1, the evidence establishes that the claimant is not currently 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, as defined below, for the required duration of 90 days for SDA.

...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).

In [REDACTED], the claimant had a GAF score of 50 with a diagnosis that included alcohol abuse. In [REDACTED], she had a GAF score of 40 with a diagnosis that included alcohol abuse and reported that she is limited to working only 18-20 hours a week because of her mental condition. In [REDACTED], she had a GAF score of 42 that included a

diagnosis of alcohol dependency. Then in [REDACTED], she was admitted with a GAF of 35 – 40 and discharged with a GAF of 52. A GAF score of 51 and above are considered non-severe occupational impairment.

Therefore, disability is not denied at this step.

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

At Step 4, the objective medical evidence establishes the claimant's inability to do any of her past work because of her severe mental impairment. Therefore, disability is not denied at this step.

Because the claimant meets the definition of disabled under the MA program guidelines and because the evidence of record establishes that the claimant is unable to work for a period exceeding 90 days, the claimant otherwise meets the disability criteria for SDA.

The objective evidence of record indicates that the claimant has a history of alcohol abuse. Applicable hearing is the Drug Abuse and Alcohol (DA&A) Legislation, Public Law 104-121, Section 105(b)(1), 110 STAT. 853, 42 USC 423(d)(2)(C), 1382(c)(a)(3)(j) Supplement Five, 1999. The law indicates that individuals are not eligible and/or are not disabled when drug addiction or alcoholism is a contributing factor material to the determination of disability. After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge finds that claimant does not meet the statutory disability definition under the authority of the DA&A Legislation because her substance abuse is material to her alleged impairment and alleged disability.

Therefore, 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, SDA denial is UPHeld.

/s/

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

Date Signed: June 20, 2011

Date Mailed: June 20, 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:

