

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

IN THE MATTER OF:



Reg. No: 20111020  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: January 19, 2011  
Macomb 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 January 19, 2011. The claimant appeared and testified.

Medical Reports (claimant's Exhibit A) recommended by SHRT and submitted in February 2011, for a second SHRT review delayed the Decision and 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) On March 13, 2010, the claimant ended his last employment due to a heart disorder.
- (3) Claimant's vocational factors are: age 29, college education, and past work experience as a skilled substitute teacher, semi-skilled nanny for an 18 month old child, unskilled coffee shop clerk, movie theater confectionist, cashier, and phone order taker.

- (4) On June 23, 2010, the claimant applied for MA, was denied on August 4, 2010, per BEM 260, and requested a hearing on August 30, 2010.
- (5) Claimant alleges disability due to heart disease.
- (6) Medical exam on [REDACTED] states the claimant was brought to the ER because of chest pains and palpitations; that she had chest pain for the past two days; that it had been intermittent; that it was not associated with respiration or exertion; that it is present during rest as well as when she is moving around; that she has a history of congenital heart disease, which was diagnosed at birth; that at age of [REDACTED] she had a right and left heart catheterization; and that at [REDACTED] had a recurrent pulmonary stenosis for which she had a stint placement (Medical Packet, page 92).
- (7) Medical exam on [REDACTED], states the claimant's current diagnosis is aortic stenosis, aortic insufficiency, and pulmonary hypertension; that claimant is scheduled for a redo of cardiac surgery on [REDACTED] that her condition is deteriorating; that she is limited to frequent lifting/carrying of 10 pounds; and that she is currently totally disabled until after surgery on [REDACTED] and a recovery period of approximately 12 weeks (Medical Packet, pages 1 and 2).
- (8) Medical exam on [REDACTED], states the claimant had surgery for aortic aneurism and insufficiency.
- (9) Medical exam on [REDACTED], states the claimant's condition is improving; that she is expected to return to work in approximately 8 more weeks; that her physical limitations are not expected to last 90 days; that she can lift/carry less than 10 pounds; that she needs no assistive device for ambulation; and that she is currently totally disabled following open heart surgery (claimant Exhibit A).
- (10) Medical exam on [REDACTED], states the claimant's sternum is stable; that the mid sternal incision is completely healed; that she is doing much better following her surgery and we are awaiting final order on her CT scan and surface echocardiogram; that once these results are available and her surgical repairs are all intact, she may proceed with returning to work when she finds a job; that she may gradually increase her lifting, pushing, and pulling to a pacind maximum; and that she may continue with mild-to-moderate intensity aerobic activity (claimant Exhibit A, page 6).
- (11) Medical exam on [REDACTED], states the claimant's condition is stable; that she can occasionally lift/carry 10 pounds; that she needs no assistive device for ambulation; that she is able to use her upper extremities on a repetitive basis, except for reaching and pushing/pulling activities and lower

extremities; and states that the claimant is currently totally disabled (claimant Exhibit A, page 4).

- (12) SHRT report dated October 26, 2010; the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 98).

### **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 any 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 physical work activities, as defined below, based on the *de minimus* standard, but not 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
- (6) Dealing with changes in a routine work setting.  
20 CFR 416.921

In March 2010, the claimant was brought to the ER with chest pains. In September 2010, she had heart surgery and with a three month recovery period would be in December 2010; this would be less than the required 12 month continuous duration.

Therefore, disability is 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 physical impairment. Her past work as a skilled substitute teacher; semi-skilled work as a cashier and order taker for the China Food Service fall within her medical limitations.

The [REDACTED], medical report states that the claimant is fully disabled. But, at the same time the report states she can frequently lift/carry 10 pounds.

The [REDACTED], medical report states the claimant is totally disabled and states the claimant is expected to return to work in approximately 8 more weeks; that would be sometime in January 2011. But, at the same time the report states she can lift/carry less than 10 pounds.

In [REDACTED], the claimant had almost completely healed; that the claimant could proceed with returning to work; and that she could gradually increase her physical activities.

The [REDACTED], report states the claimant is totally disabled. But, at the same time the report states the claimant's condition is stable; and that occasionally she can lift/carry 10 pounds.

Statements by physicians that you are "totally disabled" must be supported by medical findings. 20 CFR 416.927.

The objective medical evidence is inconsistent with the medical conclusions of being totally disabled. Therefore, not much evidentiary weight is given to the medical conclusions.

Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish that 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, as already discussed under Step 4. Her medical limitations fall within the definition of sedentary work 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 29, college education, and past semi-skilled work experience) she is not considered disabled under Vocational Rule 201.28. Therefore, disability is denied Steps 2, 4, and 5.

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, MA denial is UPHELD.

/s/

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

Date Signed: June 6, 2011

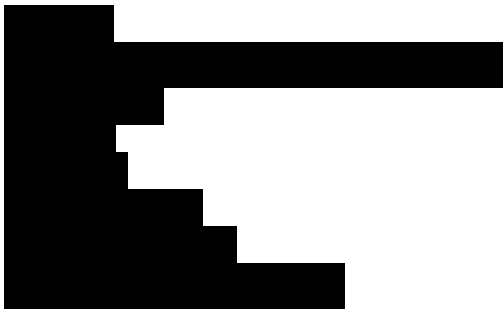
Date Mailed: June 7, 2011

**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:

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