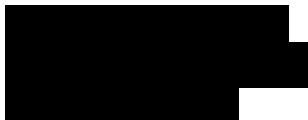


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201112597
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date March 6, 2011
Mecosta 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 March 6, 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 as material fact:

- (1) Claimant is currently unemployed.
- (2) In November 2002, the claimant was last employed due to being fired; he claims he was also disabled at the same time.
- (3) On August 10, 2010, the claimant applied for MA/SDA and was denied on October 6, 2010, per BEM 260/261 with a hearing request on December 9, 2010.
- (4) Claimant's vocational factors are: age 39, high school graduate, worked as a restaurant/bar waitress and skilled operator of a machine in a factory packing doors and window frames (Medical Packet, Page 23).
- (5) Claimant's disabling complaints are: Fibromyalgia, interstycialcytitis, arteriosclerosis, endometriosis, and depression (Medical Packet, Page 26).
- (6) Medical report of exam done on [REDACTED], states a GAF score of 45 for a bipolar disorder (Medical Packet, Page 36).

- (7) Medical report of exam done on [REDACTED], states the claimant is alert and oriented x3 under no apparent distress, speech is non-dysarthic and answers are appropriate; that she was cooperative throughout the examination; that she was able to ambulate symmetrically without gross weakness or instability; that gait is normal; that she reports pain with ambulation in her back, ankles and feet; that she does not use an assistive device for ambulation; that range of motion of all joints check is full; that hands have full dexterity; that she had 5/5 strength for intrinsic hand muscles, and pushing, pulling and lifting movements of the upper extremities; that range of motion is normal for the cervical spine, dorsal lumbar spine, shoulders, elbows, hips, knees, and ankles (Medical Packet, Pages 30-33).
- (8) SHRT report dated January 27, 2011, states the claimant's impairments do no meet/equal a social security listing (Medical Packet, Page 42).

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 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, 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 the claimant's severe mental/physical impairment in combination, as defined below, based on the de minimus standards.

...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).

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).

But, the one year continuous duration requirement has not been established by the medical evidence, as required 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 reports above address the claimant's mental/physical condition in [REDACTED]. These reports do not establish the claimant had a severe impairment that had lasted or can be expected to last for one continuous year. Therefore, disability is denied at this Step.

At Step 3, the claimant's impairments do not meet/equal a social security listing.

At Step 4, the objective medical evidence does not establish the claimant's inability to do her past work despite her severe impairment of a restaurant/bar waitress. Therefore, disability is denied at this Step.

If disability had not already been denied at Steps 2 and 4, it would be denied at Step 5. At Step 5, the objective medical evidence does not establish that the claimant has no residual functional capacity (RFC) for other work in the national economy, despite her severe impairment.

...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. When considering only the objective medical evidence, the claimant should be able to perform at least sedentary work, as defined above. At this level, considering the claimant's vocational profile (younger individual, age 39, high school graduate, and semiskilled/skilled work experience) she is not considered disabled under Vocational Rule 201.28. Therefore, disability is denied under Steps 2, 4 and 5.

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, Page 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 as defined above has not been established by the necessary competent, material, and substantial medical 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/SDA denial is UPHELD.

/s/

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

Date Signed: May 18, 2011

Date Mailed: May 19, 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:

