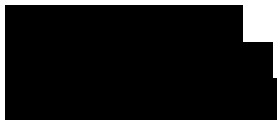


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201113025
Issue No: 2009
Case No: 101964897
Hearing Date March 31, 2011
Clare 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 31, 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 mid-year 2008 the Claimant was fired from her last job.
- (3) On July 20, 2010, the Claimant applied for MA and was denied on November 22, 2010, per BEM 260 with a hearing request on December 1, 2010.
- (4) Claimant's vocational factors are: Age 50, one year of college, and past semiskilled work experience as a cashier, skilled sedentary work as a office manager, assistant office manager, unskilled office assistant and a head cashier (Medical Packet, Page 255).
- (5) Claimant's disabling complaints are: Fibromyalgia, chronic pain, anxiety, and depression (Medical Packet, Page 268).
- (6) Medical report of exam done on [REDACTED], states the Claimants GAF of 65 (Medical Packet, Pages 118 c and d).

- (7) Medical report of exam done on [REDACTED], states the Claimant is alert and oriented x3, and in no acute distress; and that strength of extremities is 5/5 (Medical Packet, Page 117).
- (8) SHRT report dated February 7, 2011, states the Claimant impairments do not meet/equal a social security listing (Medical Packet, Page 268).

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 objective medical 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 is insufficient to establish a severe mental/physical impairment in combination, as defined below based on the de minimus standard.

...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.

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).

The objective medical evidence does not address the Claimant's alleged mental/physical impairment on date of application, or the required duration requirements stated above.

The medical evidence that addresses the Claimant's mental/physical limitations is one year before the application. In July of 2009 it states the Claimant had extremities strength of 5/5; and that she was alert and oriented x3 and had a GAF score of 65. This is a person who has mild difficulty with occupational functioning. Diagnostic and Statistical Manual of Mental Disorders (4th Edition-Revised). Therefore, disability is denied At this step.

At Step 3, the objective medical evidence does not establish the Claimant's impairments meet/equal a social security listing. Therefore, disability is not denied at this Step.

At Step 4, the objective medical evidence does not establish the Claimant's inability to do past work for the same reason, already discussed under Step 2. Therefore, disability is denied at this Step.

At Step 5, the burden of proof shifts to the DHS to establish that the Claimant has a residual functional capacity for other work in the national economy. As already discussed under Steps 2 and 4, the Claimant has not established a severe mental/physical impairment in combination that has met the one year duration requirement. Therefore, she cannot be considered disabled under this Step.

Therefore, disability as defined above has not been established 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 Corrigan, Director
Department of Human Services

Date Signed: May 16, 2011

Date Mailed: May 16, 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:

