

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

IN THE MATTER OF:



Reg. No: 201115843
Issue No: 2009
Case No: [REDACTED]
Hearing Date: April 19, 2011
Van Buren 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 April 19, 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 has been currently working since 3 weeks ago.
- (2) In May 2009, the Claimant quit her last job and moved to Texas.
- (3) Claimant's vocational factors are: age 31, high school education, and past work experience as a semi-skilled worker in grocery store in the bakery/deli department, unskilled work at [REDACTED] fast food, and currently do work of office cleaning, 10-15 hours a week.
- (4) On September 21, 2010, the Claimant applied for Medicaid, was denied on December 15, 2010, per BEM 260, and requested a hearing January 14, 2011.

- (5) Claimant's disabling complaints are: depression and bipolar disorder with onset of [REDACTED].
- (6) Claimant admits that she is able to perform her past jobs.
- (7) Medical exam on [REDACTED], states the Claimant was oriented to person, place, and time, and that she had a current/last year GAF of 50 (Medical Packet, Pages 36 and 37).
- (8) Medical residual functional capacity assessment on [REDACTED], states the Claimant is **not** significantly limited in ability to remember locations and work-like procedures, to understand and remember one or two-step instructions, to carry out simple, one or two-step instructions, to maintain attention and concentration for an extended period, to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, to sustain an ordinary routine without supervision, to work in coordination with or proximity to others without being distracted by them, to make simple work-related decisions, to complete a normal work day and work week without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, to interact appropriately with the general public, to ask simple questions or request assistance, to accept instructions and respond appropriately to criticism from supervisors, to get along with co-workers or peers without distracting them or exhibiting behavioral extremes, to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness, to respond appropriately to change in the work setting, to be aware of normal hazards and take appropriate precautions; and she's moderately limited in ability in unfamiliar places or use public transportation, set realistic goals or make plans independently of others, and carry out detailed instructions (Medical Packet, Pages 34 and 35).
- (9) SHRT report dated February 16, 2011, states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 69).

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. 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 work activities, 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).

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).

Therefore, disability is not denied at this step.

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

At Step 4, the objective medical evidence does not establish the Claimant's inability to do her past/current work, despite her severe impairment.

To the contrary the Claimant admits that she has the ability to do her past jobs.

The psychological evidence stated the Claimant's GAF score of 50. This is considered a severe mental impairment in occupational functioning. But, the mental residual functional capacity assessment established that the Claimant was not significantly limited in understanding, memory, and executing simple instructions.

Also, the Claimant was also able to understand, remember, and promptly answer questions at the hearing.

Therefore, disability is denied at Step 4.

Therefore, the Claimant has not established disability, as defined above, by the necessary competent, material, and substantial of medical evidence of 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 Maua D. Corrigan, Director
Department of Human Services

Date Signed: May 10, 2011

Date Mailed: May 10, 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:

