

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

IN THE MATTER OF:



Reg. No: 201119986
Issue No: 2009
Case No: [REDACTED]
Hearing Date: May 24, 2011
Genesee 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, an in-person hearing was held on May 24, 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) On March 1, 2011, the claimant was laid off from work and thereafter became a recipient of Unemployment Compensation Benefits (UCB) and expects to continue the benefits for an additional 26 weeks.
- (3) Claimant's vocational factors are: age 47, 12th grade education, and past work experience as a semi-skilled daycare center teacher, skilled invoice processing specialist doing office administrative/clerical work, and skilled individual child care provider.

- (4) On July 28, 2010, the claimant applied for MA (retro for 3 months), was denied on November 15, 2010, per BEM 260, and requested a hearing on February 10, 2011.
- (5) Claimant alleges disability due to hypertension, dizziness, and heart disorder (Medical Packet, page 101).
- (6) On [REDACTED], the claimant was admitted with an elevated hypertension and discharged with it under better control (Medical Packet, page 78).
- (7) Medical exam on [REDACTED], states the claimant's hypertension has ranged between 152/88 on the low side, up to 193/117; that she has uncontrolled hypertension; that heart was normal with first and second heart sounds, and no gallop or rub; and that she has a trace of low extremity edema (Medical Packet, pages 85 and 86).
- (8) Medical exam on [REDACTED], states the claimant's cardiovascular and respiratory were normal; that her condition was stable; that she can lift/carry frequently 10 pounds and occasionally 25 pounds; that she needs no assistive device for ambulation; and that she can use her extremities on a repetitive basis (Medical Packet, pages 73 and 74).
- (9) Medical exam on [REDACTED], states the claimant's heart and lungs were normal (Medical Packet, page 95).
- (10) Medical exam on [REDACTED], states the claimant was admitted for hypertensive urgency and discharged same day with hypertensive urgency resolved (Medical Packet, page 34).
- (11) SHRT report dated March 9, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 101).

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 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 physical work activities as defined below, based on the *de minimus* standard, and for the required duration stated below.

Therefore, disability is not denied at this step.

At Step 3, the objective medical evidence does not establish 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 skilled work experience as an invoice processing specialist doing sedentary administrative/clerical would fall within her medical limitations. Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish 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. Her medical limitations fall within the definition of sedentary work as defined above, and as already discussed under Step 4. Therefore, the claimant would be able to perform, at least, sedentary work. At this level, considering the claimant's vocational profile (younger individual, age 47, 12th grade education, and past semi-skilled work experience) she is not considered disabled under Vocational Rule 201.21. Therefore, disability is denied at steps 4 and 5.

In addition, claimant receives UCB and expects to continue them for another 26 weeks. In order to receive UCB under the federal regulations, a person must be monetarily eligible. They must be totally or partially unemployed. They must have an approvable job separation. Also, they must meet certain legal requirements, which include being

physically and mentally able to work, being available for and seeking work, and filing a weekly claim for benefits on a timely basis.

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:

