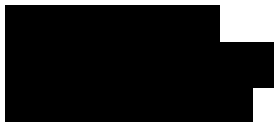


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201120873
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: May 31, 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, a telephone hearing was held on May 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 April 2008, the claimant was fired from her last job.
- (3) Claimant's vocational factors are: age 21, high school education, and past work experience as an unskilled bagger at Kroger and unskilled food preparer at Subway.
- (4) On September 1, 2010, the claimant applied for MA/SDA, was denied on January 26, 2011, per BEM 260/261, and requested a hearing on February 8, 2011.

- (5) Claimant alleges disability due to bipolar disorder and manic depression (Medical Packet, page 62).
- (6) Medical exam on [REDACTED], states the claimant is oriented to person, place, time, and self; that memory is intact; that she had enough judgment to ask for help; and that she has a GAF score of 50 (Medical Packet, pages 25 & 26).
- (7) Psychiatric evaluation on [REDACTED] includes diagnosis of poly-substance dependence, alcohol abuse, and cannabis abuse (Medical Packet, page 49).
- (8) Mental residual functional capacity assessment evaluation on [REDACTED], states that there is no evidence of limitation in the claimant's ability to ask **simple** questions or request assistance; that she is not significantly limited in ability to understand and remember one or two-step instructions, carry out simple one or two-step instructions, maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness, be aware of normal hazardous and take appropriate precautions, travel in unfamiliar place or use public transportation; and that she is moderately limited in ability to interact appropriately with the general public, accept instructions and respond appropriately to criticism from supervisors, get along with co-workers or peers without distracting them or exhibiting behavioral extremes, and set realistic goals or make plans independently of others (Medical Packet, pages 42 & 43).
- (9) Medical exam on [REDACTED], states the claimant's GAF of 48 with a history of alcoholism.
- (10) SHRT reported dated March 8, 2011, states the claimant's impairments do not meet/equal a Social Security listing (Medical Packet, page 62).

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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. BEM, Item 261, p. 1.

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 does not establish that the claimant is significantly limited in performing basic mental work activities, as defined below, and 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(b).

The objective psychological evidence of record establishes a conclusion that the claimant in [REDACTED] and in [REDACTED], had GAF scores of 50 and 48, respectively. These scores classify persons with a severe mental impairment and difficulty with social and occupational functioning.

Statements made by physicians that you are “disabled” or “unable to work” does not mean that you will be determined disabled. There has to be objective medical evidence to support a medical conclusion. 20 CFR 460.927.

To the contrary, the objective medical evidence in this case establishes the claimant’s capacity for understanding, remembering, and carrying out **simple** instructions. Therefore, a non-severe mental impairment, as defined above, has been established as defined above.

Therefore, disability is denied at this step.

At Step 3, the objective medical evidence does not establish that the claimant’s mental 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 non-severe impairment as a bagger at Kroger and a food preparer at Subway. Therefore, disability is denied at Steps 2 and 4.

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, 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 /SDA denial is UPHELD.

/s/

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

Date Signed: June 14, 2011

Date Mailed: June 14, 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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