

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

IN THE MATTER OF:



Reg. No. 2011-21189
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: August 3, 2011
Manistee 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 August 3, 2011.

Medical reports (Claimant Exhibit A) submitted after the hearing for a second SHRT review delayed the D&O below.

ISSUE

Was a severe mental impairment that was expected to last for a one year **continuous** duration 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 March/April 2011, the claimant quit his last job; thereafter, he became a recipient of unemployment compensation benefits in June 2010 and expects to continue until exhausted in May 2012.
3. Claimant's vocational factors are: age 25, high school education, and past work experience as unskilled stocking shelves at [REDACTED] and ringing bells at Christmas time for the [REDACTED], semi-skilled custodial work, crew manager at [REDACTED]s; restaurant dishwasher, and janitorial worker for a public school.

4. On November 12, 2010, the claimant applied for Medicaid/SDA, and was denied on February 18, 2011 per BEM 260/261, and requested a hearing on February 28, 2011.
5. Claimant alleges disability due to depression, bipolar disorder, fetal alcohol syndrome, and Asperger's disorder.
6. Medical exam on June 21, 2010 states the claimant's current GAF score of 61 and last year of 61 by a social worker (Medical Packet, page 101).
7. Medical exam on December 15, 2010 states the claimant's mental residual functional capacity assessment that he is not significantly limited in ability to remember locations and work-like procedures, understand and remember one- or two-step instructions, carry out simple one- or two-step instructions, perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, sustain an ordinary routine without supervision, make simple work-related decisions, ask simple questions or request assistance, respond appropriately to change in the work setting, be aware of normal hazards and take appropriate precautions, and travel to unfamiliar places or use public transportation (Medical Packet, pages 14 and 15).
8. Medical exam on December 22, 2010 states a GAF score of 48 (Medical Packet, page 21).
9. Medical exam on July 8, 2011 states the claimant's current GAF score of 35 and past year of 50 by an APRN NP (Claimant Exhibit A, page 5).
10. SHRT report dated March 11, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 105).

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 Bridges Administrative Manual (PAM), the Bridges Eligibility Manual (PEM) and the Bridges 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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 of record establishes that claimant currently is not engaged in substantial gainful work. 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, for the required duration stated below of one **continuous** year.

...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 claimant has the burden of proof to establish that he has a severely restricted mental impairment that has lasted or can be expected to last for the duration of at least one **continuous** year. There is insufficient objective medical evidence in the record

that claimant suffers from a severely restricted mental impairment for that required period.

The mental evidence of record shows the claimant's current GAF score of 61 in June 2010 and last year of 61 by a social worker; that he had a current GAF score of 35 in July 2011 and last year of 50 by an APRN NP. No evidentiary weight can be given to this information. Only medical information from an M.D., D.O. or fully licensed psychologist is an acceptable source of information.

The GAF score of 48 in December 2010 by a fully licensed psychologist is an acceptable source. Scores of 50 and below are considered a severe mental impairment with job functioning. DSM-IV (4th Edition-Revised).

But, this score is inconsistent with the mental residual functioning capacity assessment of record which shows that the claimant has the residual functional capacity to understand, remember, and carry out simple job instructions, as defined above. Also, at the hearing, the claimant had no difficulty understanding, remembering, and answering questions.

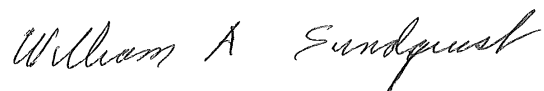
Therefore, disability is denied at this step.

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, Medicaid/SDA denial is UPHELD.



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

Date Signed: November 9, 2011

Date Mailed: November 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 mailing 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/tg

cc:

