

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

IN THE MATTER OF:

[REDACTED]  
[REDACTED]

Reg. No. 2011-22687  
Issue No. 4031  
Case No. [REDACTED]  
Hearing Date: May 18, 2011  
Kalkaska 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 18, 2011.

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

**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 has not worked since January 2009.
2. In January 2009, claimant quit her last employment.
3. Claimant alleges that she became unable to do any past work or any other work due to back problems, shattered ankle, and depression.
4. On October 15, 2010, the claimant applied for SDA, was denied on January 14, 2011 per BEM 261, and requested a hearing on February 7, 2011.
5. Claimant's vocational factors are: age 41, 10<sup>th</sup> grade education, a past work history as an unskilled factory worker, lifting/carrying assembly line airbags weighing a gallon of milk, and semi-skilled bartender.

6. Medical exam on July 20, 2010 states the claimant's mental limitations as follows: positive for depression, difficulty concentrating, mood swings, anxiousness, behaves appropriately for age, not forgetful, does not have thoughts of grandiosity, no memory loss, no obsessive thoughts, exhibits normal judgment, has normal attention span and concentration, and does not have pressured speech (Medical Packet, pages 10 and 11).
7. Medical exam on October 6, 2010 states the claimant's mental limitations as follows: oriented to time, place, person, and situation; that affect is normal; and that there is no acute distress; (Medical Packet, pages 17 and 18).
8. Medical exam on October 6, 2010 states the claimant's physical limitations as follows: musculoskeletal right ankle with minimal edema, mild pain with no guarding of range of motion; and that there is pain in joint, ankle and foot (Medical Packet, page 20).
9. Medical exam on October 6, 2010 states the examination areas for general HEENT, respiratory, cardiovascular, abdominal, musculoskeletal, neuro, and mental are normal (Medical Packet, page 37).
10. Medical exam on November 15, 2010 states the claimant's mental limitations as follows: claimant is oriented to person, place, and time; that memory is fair; that judgment was reasonable when answering questions; and rendered a GAF score of 40 (Medical Packet, pages 57 and 58).
11. Medical exam on December 19, 2010 states the following limitations: claimant was cooperative throughout the examination; that she can hear conversational speech without limitation; that there is normal intensity, clarity, and sustainability to speech without stutter; that patient walks with a mild limp on the right; that there is no instability, that grip strength remains intact, that dexterity is unimpaired; that claimant could pick up a coin, button clothing and open a door; that claimant had no difficulty getting on and off an examination table, moderate to severe difficulty heel and toe walking and mild difficulty squatting; that range of motion of the joints are normal for the cervical spine, dorsal lumbar spine, and ankles; and that claimant reports a history of depression; and that she is currently on medications for the same; and that at this time she was pleasant, appropriate, and cooperative throughout the examination (Medical Packet, pages 39 to 41).
12. SHRT report dated March 24, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 64).

## **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 (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Facts above are undisputed.

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 are used as a guide and 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 the claimant has not been engaged in substantial gainful activity since January 2009. 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/physical work activities, as defined below, for the required duration of 90 continuous days.

...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).

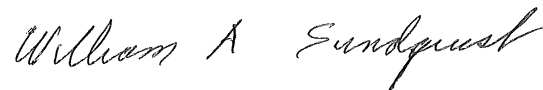
The claimant has the burden of proof of establishing that she has a severely restrictive mental or physical impairment that has lasted or can be expected to last for the required duration of at least 90 days. There is insufficient objective medical/psychiatric evidence in the record that claimant suffers a severely restrictive mental or physical impairment. There is no mental residual functional capacity assessment in the record. There is insufficient evidence contained in the file of depression or a cognitive dysfunction that is so severe that it would prevent claimant from working at any job. Claimant was oriented to time, person and place during the hearing. Claimant was able to answer all the questions at the hearing and was responsive to the questions. The evidentiary record is insufficient to find that claimant suffers a severely restrictive impairment. Also, this Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restrictive physical impairment. For these reasons, this Administrative Law Judge finds that claimant has failed to meet her burden of proof at Step 2. Claimant must be denied benefits at this step based upon her failure to meet the evidentiary burden. 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, SDA denial is UPHELD.



---

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

Date Signed: November 4, 2011

Date Mailed: November 4, 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.

2011-22687/WAS

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:

