

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-26255
Issue No. 2009
Case No. [REDACTED]
Hearing Date: July 27, 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 July 27, 2011.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P)?

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 August 2005, the claimant quit her last job.
3. Claimant's vocational factors are: age 54, high school plus education in beauty school license by the State of Michigan and work experience for one and a half years, and past work experience as unskilled greenhouse worker and assembler of auto starters in a factory, semi-skilled restaurant cook, and skilled hairdresser.
4. On January 11, 2011, the claimant applied for Medicaid, was denied on March 10, 2011 per BEM 260, and requested a hearing on March 21, 2011.
5. Claimant alleges disability due to fibromyalgia, muscle and nerve pain, and depression (Medical Packet, page 35).

6. Medical exam on November 16, 2009 states the claimant was diagnosed with moderate canal stenosis, C5-C6 level, mild cord impingement from moderate chronic disc degeneration; C7-T1 small central disc protrusion mildly impinges cord; tiny remote disc herniation, T7-T8 through T9-T10 levels without cord compression; lumbar spine unremarkable except for mild scoliosis (Medical Packet, pages 6 and 7).
7. Medical exam on December 7, 2009 states the impression of unremarkable MRI of the right hip (Medical Packet, page 10).
8. Medical exam on August 24, 2010 states the claimant's musculoskeletal: leg and lower back muscles get very tense after standing for a few minutes; that nerve pain and tingliness are 80% improved (Medical Packet, page 19).
9. Medical exam on August 24, 2010 states the claimant is alert, oriented and in no distress; and that psychiatrically, she is mildly depressed but able to smile; that fibromyalgia is stable (Medical Packet, page 20).
10. SHRT report dated April 15, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 35).

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).

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, or 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, claimant is not engaged in substantial gainful activity and has not worked since August 2005. Therefore, disability is not denied at this step.

At Step 2, the claimant has the burden of proof of establishing that she has a severely restricted physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical medical evidence in the record that claimant suffers a severely restrictive physical mental impairment. Claimant has reports of pain in multiple areas of her body; however, there is no corresponding clinical findings that support the reports of symptoms and limitations made by the claimant. In short, claimant has restricted herself from tasks associated

with occupational functioning based upon her reports of pain (symptoms) rather than medical findings. Reported symptoms are an insufficient basis upon which a finding that claimant has met the evidentiary burden of proof can be made. This Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restrictive physical impairment. Therefore, disability is denied at this step.

If claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of claimant's condition does not give rise to a finding that she would meet a statutory listing in the Code of Federal regulations.

If claimant had not already been denied at Step 2, this Administrative Law Judge would have to deny her again at Step 4 based upon her ability to perform her past relevant work. There is no evidence upon which this Administrative Law Judge could base a finding that claimant is unable to perform work in which she has engaged in the past. Therefore, if claimant had not already been denied at Step 2, she would be denied again at Step 4.

The Administrative Law Judge will continue to proceed to the sequential evaluation process to process whether or not claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior jobs.

There is insufficient objective medical/psychiatric evidence contained in the file of depression for a cognitive dysfunction that is so severe that it would prevent claimant from working at any job. Claimant was able to answer all the questions at the hearing and was responsive to the questions. Claimant was oriented to time, person and place during the hearing. Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to claimant's ability to perform work. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant has no residual functional capacity. Therefore, claimant is disqualified from receiving disability at Step 5 based upon the fact that she has not established by the objective medical evidence that she cannot perform light or sedentary work even with her impairments. Under the Medical-Vocational Guidelines a person closely approaching advanced age of 54, with more than a high school education and an unskilled/semi-skilled/skilled work history who is limited to sedentary work is not considered disabled. 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 denial is UPHELD.

William A Sundquist

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

Date Signed: July 28, 2011

Date Mailed: July 29, 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:

