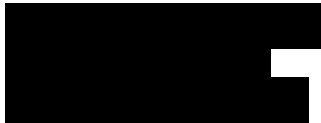


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No: 201145480
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: November 1, 2011
Wayne 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 Tuesday, November 1, 2011. Claimant appeared and provided testimony on her behalf.

Medical reports (Claimant Exhibit A) submitted at the hearing delayed decision and order below.

ISSUE

Did Claimant, on date of application, establish a severe mental/physical impairment that had lasted or was expected to last for a one year continuous duration?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In 2008/2009 claimant's last employment ended when he was fired; thereafter, he became Unemployment Compensation Benefit recipient.
2. In 2008/2009 claimant alleges onset of disability due to depression, high blood pressure and leg problems (Medical Packet, Page 97).
3. In April 2010 claimant's unemployment compensation benefits expired.
4. On October 22, 2010, claimant applied for MA-P/SDA; she was age 50, with 12 grade plus education, and work experience as an unskilled worker, [REDACTED] requiring sitting/walking and janitor.

5. Medical exam on October 27, 2010, states the claimant is alert, awake and oriented to person, place and time; that muscle strength and pin sensation on both sides of the face are equal; that she is ambulatory; that she carries crutches, but could walk without them with a stable gait; that toe and heel walk were slowly; that she had normal range of motion for the cervical spine, lumbar spine, shoulders, elbows, knees, ankles; that she was able sit, stand, walk, carry, push, pull, write, squat and arise from squatting, get on and off examining table; that she was able to walk on heels and toes in tandem; and that gait was within normal limits (Medical Packet, Pages 54-59).
6. Medical exam on January 11, 2011, states a current GAF score of 55 (Medical Packet, Page 64).
7. On May 20, 2011, claimant's application was denied per BEM 260/261 with a hearing request on July 20, 2011.
8. Medical exam on October 21, 2011, states the claimant is limited to standing/walking 1 hour in a regular 8 hour day; that she is able to sit; that claimant requires an assistive device for standing/walking; that her legs should be elevated 4 hours out of a 8 hour work day; that she should never stoop (bend), crouch/squat, climb ladders, nor climb stairs; and this signed report is unclear as to the specialty of the signer (Claimant Exhibit A, Pages 10-11).

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 (BAM), the Program Eligibility Manual (BEM) 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 (BAM), the Program Eligibility Manual (BEM) 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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 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, disability is not denied. The evidence of record establishes that the claimant was not engaged in substantial gainful work on date of application, nor currently.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish that the claimant had a severe mental/physical impairment that significantly limited her mental/physical ability to do basic work activities, as defined below, for the required one year continuous duration, as defined below.

Severe/Non-Severe Impairment

...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).

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 medical evidence of record establishes the claimant's current GAF score of 55 in January 2011. 51 and over is considered a person with a non-severe mental impairment with job-functioning. DSM-IV (4th edition-revised).

The medical reports of record are mostly examination, diagnostics, and treatment reports. They do not provide medical assessments of the claimant's work limitations/restrictions in order to determine whether the claimant has a severe impairment or non-severe impairment relative to performing basic work activities, as defined above. Said in another way, these reports do not establish whether the claimant has a slight, mild, moderate (non-severe impairment, as defined above) or severe impairment, as defined above.

Duration of Impairment

You cannot be determined disabled without medically establishing the duration requirement, as defined below.

...[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.

The medical evidence of record, on date of application, does not establish a severe mental/physical impairment that had lasted or was expected to last for a one year continuous duration.

Therefore, disability is denied at Step 2.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and 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, disability has not been established at Step 2, as defined above, by the 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**.

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

Date Signed: April 16, 2012

Date Mailed: April 17, 2012

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/tb

cc:

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