

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-47244
Issue No. 2009
Case No. [REDACTED]
Hearing Date: November 15, 2011
Macomb County DHS (#12)

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 November 15, 2011.

ISSUE

Was a severe mental/physical impairment that had lasted or can be expected to last for a continuous period of one continuous year 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 April 9, 2009.
2. On April 9, 2009, the claimant quit her temporary service job and left due to a stroke; thereafter, she became an unemployment compensation benefit recipient in May 2009 exhausting her benefits on March 22, 2011; during that period of time, she admitted that she had the residual functional capacity for her past computer type work.
3. In January 2011, claimant alleges that she became unable to do any past work or any other work due to arthritis, asthma, arrhythmia, gastric bypass, anemia, diabetes, cerebral vascular accident, cognitive disorder, mood disorder, depression, lapse of memory, and alcohol abuse.
4. On May 12, 2011, the claimant applied for Medicaid, was denied on July 19, 2011 per BEM 260 and requested a hearing on August 29, 2011.

5. Claimant's vocational factors are: age 51, high school plus education, and past work history as a skilled accounting/administrative/clerical/computer operator.
6. Medical exam on January 13, 2011 states the claimant has a normal range of motion of the back; that musculoskeletal has a normal range of motion and normal strength; and that neurologically she is alert and oriented to person, place, time and situation; and psychiatrically, her mood and affect are tearful and her judgment impaired by intoxication (Medical Packet, page 35).
7. Medical exam on January 14, 2011 states the claimant was admitted for alcoholism and depression on January 14, 2011 for one day (Medical Packet, page 52).
8. Medical exam on May 19, 2011 states the claimant's condition is stable (Medical Packet, page 11).
9. Medical exam on May 31, 2011 states the claimant is generally alert, awake and oriented; that no abnormalities were noted; that motor exam reveals fair muscle tone without evidence of flaccidity; that she had a normal range of motion of the cervical spine, lumbar spine, shoulders, elbows, knees, ankles, wrists, hands, fingers; that she was able to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pick up coin, pick up pencil, write, squat and arise from squatting, get on and off the examination table, climb stairs; that she could walk on heels and toes and in tandem; that gait was stable within normal limits; that she needs no support for walking; and that she had a GAF score of 50 (Medical Packet, pages 40 to 53).
10. Medical exam in August 2011, states the claimant is capable of low stress jobs; that she can walk without rest for one hours; that she can sit at one time one hour before needing to get up; that she can stand at one time before needing to sit down, walk around, etc., for 30 minutes; that she can sit and stand/walk in an eight hour workday of less than two hours; that she needs to include periods of walking around during an eight-hour workday; that she needs a job that permits shifting permissions at will from sitting, standing or walking; that she will sometimes need to take unscheduled breaks during an eight-hour workday; that she requires no standing/walking or assistive devices; that she can occasionally lift/carry ten pounds; that she can occasionally look down (sustain flexion of neck), turn head right or left, look up, and hold head in steady position; that she can rarely twist, and never stoop, crouch/squat, climb ladders and stairs; that she does not have significant limitations with reaching, handling, or fingering (Medical Packet, pages 54 to 58).

11. SHRT report dated September 26, 2011 states the claimant's impairments do not meet/equal a Social Security Listing (Medical Packet, page 59).

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 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, claimant is not engaged in substantial gainful activity and has not worked since April 9, 2009. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record does not establish that the claimant has significantly limited in performing basic mental/physical work activities, as defined below, for the required 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 restrictive mental/physical impairment that has lasted or can be expected to last for a duration of at least one **continuous** year. There is insufficient objective medical evidence in the record that claimant suffers a severely restrictive mental/physical impairment for the required period.

The claimant admitted that she had a residual functional capacity for her past computer work until her UCB ended in March 2011. From this day forward, the medical reports of record are mostly diagnostic/treatment reports and do not assess the claimant's mental/physical work limitations/restrictions.

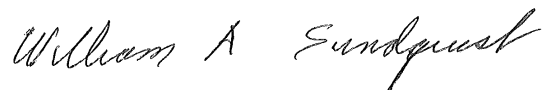
The medical reports of record in May 2011 do assess the claimant's physical limitations/restrictions and do not support a severe physical impairment that has lasted or can be expected to last for a one year **continuous** duration. Therefore, disability is denied at Step 2.

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

Date Signed: December 15, 2011

Date Mailed: December 16, 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:

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