

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

IN THE MATTER OF:



Reg. No: 20119221
Issue No: 2009;4031
Case No: [REDACTED]
Hearing Date: February 23, 2011
Lake 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 February 23, 2011. The claimant appeared and testified.

Medical reports (Claimant's Exhibit A) submitted at the hearing delayed the Decision & Order 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 is currently unemployed.
- (2) On June 20, 2006, the claimant's last employment ended due to her husband's death, for whom she worked.
- (3) Claimant's vocational factors are: age 51, high school education, and past semi-skilled work experience as a office manager, and unskilled restaurant waitress (Medical Packet, page 7).

- (4) On August 9, 2010, the claimant applied for MA/SDA, was denied on September 15, 2010, per BEM 260/261, and requested a hearing December 7, 2010.
- (5) Claimant alleges disability due to back, neck, hip, and knee pain (Medical Packet, page 43).
- (6) Medical exam on [REDACTED] states the claimant's back was associated with pain to palpitation and range of motion testing; and that gait nonantaigic (Medical Packet, page 13).
- (7) Medical exam on [REDACTED] regarding back pain states the claimant has no definite evidence for Frank herniated disk; that osteoarthritis changes are present along with degenerative disc disease; and that neural foraminal narrowing is noted involving the left neural canal at L5-S1 and the right neural canal at L4-L5 (Claimant Exhibit A, page 1).
- (8) Medical exam on [REDACTED], regarding the claimant's neck pain states that small disc herinations are present at C5-C6 and C6-C7; that larger of these is present at C6-C7 resulting in mild central canal stenosis (Claimant Exhibit A, page 3).
- (9) Medical exam on [REDACTED], states the claimant's neurological exam showed gait, strength, reflexes, and sensation all grossly normal (Medical Packet, page 4).
- (10) Medical exam on [REDACTED], states the claimant's exam was within normal limits, except her gait was leaning to the right (Claimant Exhibit A, page 14).
- (11) Medical exam on [REDACTED], states the claimant had paraspinal tenderness; that her sensation was intact; that gait was normal; and that neurological findings were normal (Claimant Exhibit A, page 12).
- (12) SHRT report January 14, 2011, states the claimant's impairments do not meet/equal a social security listing (Medical Packet, page 43).

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 (PAM), the Program Eligibility Manual (PEM) 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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The 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.

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 establishes that the claimant is not currently engaged in substantial gainful activity. Therefore, disability is not denied at this step.

At Step 2, the objective medical evidence of record establishes that the claimant is significantly limited in performing basic physical work activities based on the *de minimus* standard, and the definition below, but not for the required duration below.

Therefore, disability is denied at this step based on duration.

At Step 3, the objective medical evidence does not establish the claimant's impairments meet/equal a Social Security listing.

At Step 4, the objective medical evidence does not establish the claimant's inability to do any of her past work, despite her severe physical impairment. Her past work as an office manager falls within her medical limitations. Therefore, disability is denied at this step.

At Step 5, the objective medical evidence does not establish that the claimant is without a Residual Functional Capacity (RFC) for other work in the national economy.

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor.... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Claimant's disabling complaints above that she has no RFC for any work is not supported by the objective medical evidence of record. Her medical limitations fall within the definition of sedentary work, as defined above. Therefore, the claimant would be able to perform, at least, sedentary type work. At this level, considering the claimant's vocational profile (closely approaching advanced age, 51, high school graduate, and past semi-skilled work experience) she is not considered disabled under Vocational Rule 201.15. Therefore, disability is denied at Steps 2, 4, and 5.

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, page 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, 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, MA/SDA denial is UPHELD.

/s/

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

Date Signed: June 20, 2011

Date Mailed: June 20, 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 receipt 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.

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