

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201216325  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: May 24, 2012  
Bay 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, an in-person hearing was held on Thursday, May 24, 2012. Claimant appeared with her authorized [REDACTED]. The Department's witness was [REDACTED].

The record was extended 90 days at the Claimants request for a 2<sup>nd</sup> SHRT review of additional medical reports introduced at the hearing (Claimant Exhibit A).

**ISSUE**

Was disability, as defined below, 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's MA-P application on July 13, 2011 was denied on September 19, 2011 per BEM 260, with a hearing request on December 7, 2011.
2. Claimant was age 53, with a 12<sup>th</sup> grade education, and history of sedentary semi-skilled work.
3. Claimant ended his last employment in 2005, there is no evidence of record whether or not the Claimant became an unemployment compensation benefits recipient and/or was engaged in substantial gainful activities before, on, and after date of application.
4. Claimant alleges disability based on a combination of multiple medically diagnosed mental/physical disorders (Medical Packet, Page 92).

5. Medical reports state the Claimant on:
  - a. July 22, 2010, has no cardiomegaly, congestive heart failure or active pulmonary disease (Medical Packet, Page 56).
  - b. April 30, 2011, has no localized muscular weakness; and that she is not in an acute distress (Claimant Exhibit A, Pages 18 and 19).
  - c. May 23, 2011, is a well-developed, awake, alert and oriented person who appeared in no apparent distress; that she is oriented x3; that her strength is 5/5 in all extremities; and that neurologically her reflexes are intact, and sensation is intact (Medical Packet, Pages 24 and 31).
  - d. August 9, 2011, is in only mild amount of distress; that lungs are clear to auscultation; that her extremities are within normal limits; that she has reasonably proximal muscle strength in the upper and lower extremities (Claimant Exhibit A, Page 14).
  - e. August 15, 2011, has motor, sensory and neurovascular intact distally (Claimant Exhibit A, Page 10).
  - f. November 5, 2011, has mild to moderate distress at this time; that lungs is clear to auscultation (Claimant Exhibit A, Page 4).
6. SHRT decision dated January 3, 2012 states the Claimant's impairments do not meet/equal a Social Security listed impairment (Medical Packet, Page 92).

### **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 (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.

The Claimant has the burden of proof to establish disability as defined above by the preponderance of the evidence of record and in accordance with the 5 step process below. 20 CFR 416.912(a).

When determining disability, the federal regulations are used as a guideline 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).

Disability is denied at Step 1. The evidence of record does not establish that the Claimant has not been engaged in substantial gainful activities before, on or after date of application.

If disability had not been denied at Step 1, it would be denied at Step 2. The medical evidence of record does not establish, on date of application, the Claimant's significantly inability to perform basic work activities due to a combination severe mental/physical impairment for a 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 reports of record are mostly examination, diagnostic and treatment reports, and do not provide medical assessments of Claimant's mental/physical limitations relative to inability to perform basic work activities, as defined above. 20 CFR 416.913(c)(1) and (2). Stated differently, does the combination mental/physical impairment impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical evidence of record established a combination non-severe impairment, as defined above. Therefore, a combination severe mental/physical impairment meeting the one year continuous duration requirement, as defined above, has not been established.

If disability had not already been denied at Step 1, the analysis would proceed to Step 3 where the medical evidence of record, on date of application, does not establish a severe impairment meeting/equaling a Social Security listed impairment and the duration requirement.

If disability had not already been denied at Step 1, it would be denied at Step 4. The medical evidence of record, on date of application, does not establish Claimant's inability, despite her impairments, to perform any of her past work for the required one year continuous duration.

If disability had not already been denied at Step 1, it would be denied at Step 5. The medical evidence of record, on date of application, does not establish the Claimant's was without a residual functional capacity (RFC), despite her impairments, to perform any other work in the National Economy for the required one year continuous duration.

...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).

The medical evidence of record, on date of application, does not establish the Claimant was without a RFC for less strenuous work than her past work, such as sedentary work,

as defined above. Under the Medical-Vocational Guidelines, and individual closely approaching advanced age of 53, with a high school education, and semi-skilled sedentary work history who is limited to sedentary work is not considered disabled.

Therefore, disability has not been established at Step 1 and also at Steps 2, 3, 4 and 5 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, MA-P denial is **UPHELD**.

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

Date Signed: June 26, 2012

Date Mailed: June 27, 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:

