

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20122012
Issue No: 2009
Case No: [REDACTED]
Hearing Date: April 5, 2012
Saginaw 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, April 5, 2012. Claimant appeared with her authorized representative, [REDACTED], Care Comp Specialists.

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 February 24, 2011 was denied on July 7, 2011 per BEM 260, with a hearing request on September 26, 2011.
2. Claimant was 53, with high school education, and history of semi-skilled work.
3. Claimant last worked in August 2008, and became an unemployment compensation benefits recipient with exhaustion 2 years ago.
4. Claimant alleges disability due to a combination of multiple medically diagnosed mental/physical impairments.
5. Medical exam on February 10, 2011, states the claimant's extremities are normal; and that psychiatrically she is oriented x 3 and has a normal affect (Medical Packet, Page 12).

6. Medical exam on February 10, 2011, states the claimant's GAF score of 45 (Medical Packet, Page 34).
7. Medical exam on February 14, 2011, states the claimant is no acute disease process (Medical Packet, Page 14).
8. Medical exam on August 22, 2011, states the claimant does not appear to be in any acute distress or discomfort; that she is alert and oriented x3; and that she has no cognitive deficits; that her cranial nerves are grossly intact; that her upper extremities are normal; that she had a full range of motion; that fine dexterity was normal; that she was able to bend and touch her toes; that straight-leg raising was normal; that she was able to walk on heel and toes and in tandem; that balance was good; that from a physical point of view, she will be limited because of frequency of seizures; and that she has a normal range of motion of the cervical spine, lumbar spine, shoulders, elbows, hips, knees, ankles, wrists (Medical Packet, Pages 42-46).
9. Medical residual functional capacity assessment on August 22, 2011, states the claimant has the ability to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make fist, pickup coin, pickup pencil, write, squat and arise from squatting, get on and off of examining table, climb stairs; that she can walk on heels and toes in tandem; that she has a stable gait within normal limits; and that she does not need a walking aide (Medical Packet, Pages 47-48).
10. Psychological medical exam on September 7, 2011, states the claimant GAF score of 65 (Medical Packet, Page 40).
11. SHRT report dated November 23, 2011, states the claimant's impairments do not meet/equal a social security listed impairment (Medical Packet, Page 50).

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 burden of proof is on the claimant to establish disability in accordance with the 5 step process below. ...20 CFR 460.912(a).

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).

Disability is not denied at Step 1. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since August 2008.

Disability is denied at Step 2. The medical evidence of record does not establish the claimant's significant inability to perform basic work activities due to a combination of severe mental/physical impairments 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 question is whether the claimant's combination of medically diagnosed mental/physical disorders are non-severe or severe, as defined above. Said in another way, do combination of claimant's diagnosed mental/physical disorders impair claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

Most of the medical reports of record are 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).

The medical evidence of record established the claimant's GAF scores of 45 in February 2011, and 65 in September 2011. 45 is considered a serious mental impairment with job-functioning, and 65 a mild mental impairment with job-functioning. DSM-IV (4th edition-revised).

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

If disability had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of record 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 2, it would be denied at Step 4 where 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 2, it would be denied at Step 5 where the medical evidence of record, on date of application, does not establish the claimant 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 that 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, an individual closely approaching advanced age of 53, a high school education, and semi-skilled work history who is limited to sedentary work is not considered disabled.

Therefore, disability has not been established at Step 2 and also at Steps 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, Medicaid denial is **UPHELD**.

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

Date Signed: April 10, 2012

Date Mailed: April 11, 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

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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:

