

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

**IN THE MATTER OF:**



Reg. No: 2012-24046  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: February 23, 2012  
DHS MA Special Processing Unit

**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, 2012. Claimant personally appeared and testified.

**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. On March 14, 2011, claimant was approved for interim Medicaid, was denied on August 11, 2011 per BEM 260 and requested a hearing on October 12, 2011.
2. Claimant's vocational factors are: Age 38, GED and has work history of unskilled/semi-skilled work.
3. In March 2008, claimant was laid off from his last job and became an unemployment compensation benefit recipient in 2009 with exhaustion in October 2010.
4. On date of application, claimant alleged disability due to multiple mental/physical disorders.
5. A medical examination on October 13, 2010, states the claimant is alert and no acute distress; that his back is normal; that extremities exhibit a

normal range of motion; that he is oriented x3; that mood/affect is normal; that speech is normal; and there are no motor or sensory deficits (medical packet, Pg. 41).

6. A medical examination on April 19, 2011, states that claimant's GAF score of 50 (medical packet, Pg. 59).
7. A medical examination on April 19, 2011, states the claimant's attitude was cooperative; that his thought process was logical/organized; that mood was depressed; that affect was appropriate; that he denies suicidality/homicidality; that he is fully oriented; that memory in all spheres is intact; that insight is limited; and that judgment is fair (medical packet, Pgs. 75-76).
8. A medical examination on June 29, 2011, states that the claimant is alert and cooperative; that gait is normal; that he is able to get on and off of the examination table; that he can raise both hands above head level; that straight leg raising is equal bilaterally; that there is no wasting of muscles; that handgrip is equal; that swelling and mild deformity affects the 5<sup>th</sup> metacarpal joint on the left hand; that lower back movements are restricted to about 60% of normal range; that cranial nerves II-XII are grossly intact; that touch, pinprick and sensation are normal; that motor strength is equal bilaterally; that gait is normal; that he has no wasting muscles; that speech and memory appear to be normal; orientation is normal; that general health is good; that he is not able to do any heavy lifting, pushing, pulling or frequent climbing; that range of motion is normal in the cervical spine, lumbar spine, shoulders, elbows, hips, knees, wrists, hands-fingers (medical packet, Pgs. 9-11).

### **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 five 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 months? 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, on date of application, that the claimant had not been engaged in substantial gainful work since his

last employment in March 2008 and became an unemployment compensation benefit recipient with exhaustion in October 2010.

As Step 2, disability is denied. The medical evidence of record, on date of application, is not established the claimant's significant inability to perform **basic work activities** due to a **severe** mental/physical impairment in combination for the required one year **continuous** duration, as defined below.

...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).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

The medical evidence of record establishes the claimant's GAF score of 50 in April 2011. This is a borderline severe/non-severe mental impairment with job-functioning. DSM IV (4<sup>th</sup> edition-revised).

The question in this case is whether the medical evidence of record established a severe or non-severe mental/physical impairment in combination, as defined above. Said in another way, do the diagnosed multiple disorders and disabling complaints impair the claimant slightly, mildly, moderately (non-severe 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 work limitations/restrictions relative to inability to perform basic work activities, as defined above. 20 CFR 460.913(c)(1)(2).

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

Therefore, disability has not been established at Step 2 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: March 6, 2012

Date Mailed: March 7, 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/jk

cc:

