

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201224845
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: March 20, 2012
Wayne 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 Tuesday, March 20, 2012. Claimant appeared and provided testimony on her behalf.

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/SDA application on April 25, 2011 was denied on December 20, 2011 per BEM 260/261, with a hearing request on January 13, 2012.
2. Claimant was 45, with GED, and history of semi-skilled managerial administrative work at an Adult Foster Care Home.
3. Claimant last worked in 2007.
4. Claimant alleges disability due to multiple medically diagnosed physical disorders in combination.
5. Medical exam on November 14, 2011, states the claimant condition is deteriorating (Medical Packet, Page 20).

6. Medical exam on February 10, 2012, states the claimant's respiratory is negative for difficulty for breathing, hemoptysis or wheezing; that cardiovascularly she is negative for chest pains, palpations, shortness of breath, heart attack or irregular heartbeat; that she is negative for angina, congestive heart failure; that she is of average build, well-nourished, and in no acute distress; that she had a badly limping gait even with the help of a cane; that she was not able to go on the examination table during this evaluation; that she is able to raise both arms above the head; that grip is accurate in both hands; that she has severe restriction of range of motion in the LS spine; that she has severe restriction of range of motion in the left knee with crepitations; that her left ankle was twisted internally with mild crepitations; that her motor power and tone are normal; that there is no muscle weakness or paralysis noted; that sensory sensations are normal; that heel-to-knee and finger-to-nose testing normal; that the Romberg test is negative; that the claimant has moderate restrictions for occupational ability because of the left knee, meniscus tear, lower back pain, arthritis, asthma, and bronchitis, COPD; that she has moderate limitations for walking, standing and climbing the stairs and ladders and lifting; that she has normal range of motion for the cervical spine, shoulders, elbows, hips, knees, ankles, wrist, hands-fingers; that she has the ability to sit, push, pull, button clothes, dress-undress, dial telephone, open door, make a fist, write; that she does not have the ability stand, bend, stoop, carry, tie shoes, pickup coin, pickup pencil, squat and arise from squatting, get on and off examining table, climb stairs; and that she has a compensated gait, that she has a need for a walking aid (Medical Packet, Pages 34-39).

8. SHRT report dated February 29, 2012, states the claimant's impairments do not meet/equal a social security listed impairment (Medical Packet, Page 40).

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 (BAM), the Program Eligibility Manual (BEM) 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 (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).

At Step 1, disability is not denied. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since 2007.

At Step 2, disability is denied. The medical evidence of record does establish the claimant's significant inability to perform basic work activities due to a severe physical impairment in combination. But, not 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 medically diagnosed physical disorders are non-severe or severe in combination for a one year continuous duration, as defined above. Said in another way, do the claimant's medically diagnosed physical disorders in combination impair the claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above for one continuous year?

Medical evidence of record in February 2012, states the claimant has moderate occupational ability for walking, standing, and climbing stairs, ladders and lifting. Also, conflicting medical evidence of record shows that the claimant does not have ability to perform these activities.

Most of the medical reports of record are diagnostic and treatment reports, and do not provide medical assessments of claimant's physical limitations relative to ability to perform basic work activities, as defined above for one continuous year. 20 CFR 460.913(c)(1)(2).

Therefore, a severe physical impairment in combination lasting one continuous year 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 medical evidence of record, on date of application, does not establish claimant's inability, despite her impairments, to perform any of her past work, such as a manager/administrator of an Adult Foster Care Home 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 an RFC for less strenuous work, than her past work, such as sedentary work, as defined above. Under the medical-vocational guidelines, a younger individual age 45, with a GED, and unskilled/semi-skilled work history who is limited to sedentary work is not considered disabled.

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 261, p. 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, 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/SDA denial is **UPHELD**.

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

Date Signed: April 3, 2012

Date Mailed: April 4, 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:

