

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

**IN THE MATTER OF:**



Reg. No: 201229590  
Issue No: 2009, 4031  
Case No: [REDACTED]  
Hearing Date: April 11, 2012  
Manistee 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 Wednesday, April 11, 2012. Claimant appeared and provided testimony on his 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 September 13, 2011 was denied on November 21, 2011 per BEM 260/261, with a hearing request on January 25, 2012.
2. Claimant was 48, with high school education, and history of unskilled/semi-skilled work.
3. Claimant last worked on June 23, 2011.
4. Claimant alleges disability due to a combination of multiple medically diagnosed mental/physical impairments.
5. Medical residual functional capacity (RFC) assessment exam on December 10, 2011, states the claimant is well-developed, well-nourished and in no obvious distress; that he was alert, well-oriented, and cooperative; that affect, dress, and effort were all appropriate; that his

immediate, recent and remote memory was intact with normal concentration; that his insight and judgment were both appropriate; that there was no evidence of joint laxity, crepitation or effusion; that grip strength remains intact; that dexterity is unimpaired; that he could pick up a coin, button clothing, and open a door; that he had no difficulty getting on and off the examination table, no difficulty heel and toe walking and no difficulty squatting; that he was unable to hop; that range of motion of the joints was normal for the dorsal lumbar spine, shoulders, elbows, knees, hips, ankles; that cranial nerves are intact; that motor strength was 4/5 for and the right lower and left lower extremities; that sensory is intact to light touch and pin prick; that reflexes are intact and symmetrical; that Romberg testing is negative; that straight leg raising is accomplished to 20° degrees on the right and 40° degrees on the left; that he walks with a mild bilateral limp, without the use of an assistive device; that he has the neurologic and orthopedic ability to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pick up coin, pick up pencil, write, squat and arise from squatting, get on and off examining table, climb stairs; that he can walk heels and toes in tandem; that his gait is stable and within normal limits; that he does not need the use of a walking aid; and that his grip strength is 5/5 (Medical Packet, Pages 87-90b).

### **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).

Disability is not denied at Step 1. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since June 23, 2011.

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 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.

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 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 18, 2012

Date Mailed: April 19, 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:

