

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201229601  
Issue No: 2009, 4031  
Case No: [REDACTED]  
Hearing Date: April 12, 2012  
Kent 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 Thursday, April 12, 2012. Claimant appeared along with his [REDACTED] s [REDACTED], and provided testimony.

**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 21, 2011 was denied on January 11, 2012 per BEM 260/261, with a hearing request on January 26, 2012.
2. Claimant was 42, with a high school education, and history of unskilled/semi-skilled/skilled work.
3. Claimant last worked on April 20, 2011.
4. Claimant alleges disability due to a combination of multiple medically diagnosed mental/physical impairments.
5. Medical report on May 5, 2011, states that from a neuro surgical standpoint the claimant will be off work until July 30, 2011 (Medical Packet, Page 33).

6. Medical report on June 2, 2011, states the claimant had a follow-up for his C6-7 posterior cervical laminectomy and infusion; that it has been 6 weeks since surgery; that the claimant's upper extremity strength is essentially 5/5 throughout; that his incision is well healed; and that x-rays show bone graft fusion hardware in good position (Medical Packet, Page 22).
7. Medical report on July 5, 2011, states the claimant was seen for follow-up of his C6-7 posterior cervical laminectomy; that it has been 2 ½ months since surgery; that he is performing some of his usual activities; that his level of function is not increasing enough to get him back to work; that his upper extremity strength is essentially 5/5 throughout, although he cannot fully move his right shoulder because of some local shoulder problems; that x-rays show bone graft fusion hardware in good position; that it has been 2 ½ months status-post C6-7 posterior cervical laminectomy fusion; and that he will follow-up in 6 weeks, at which time I will most likely return him to work (Medical Packet, Page 21).
8. Medical exam on July 5, 2011, states that from a neuro surgically standpoint the claimant will be off work until the next appointment which is August 23, 2011 (Medical Packet, Page 34).
9. Medical exam on September 27, 2011, states the claimant was seen for a follow-up for his C6-7 posterior cervical laminectomy fusion; that it has been 6 months since surgery; that his upper and lower extremity strength is 5/5 throughout; that his incisions are well healed; that x-rays of the cervical spine show bone graft infusion hardware in good position (Medical Packet, Page 20).
10. Mental Residual Functional Capacity assessment on October 27, 2011, states the claimant is moderately limited in understanding and memory regarding ability to understand and remember 1 or 2-step instructions, and sustained concentration and persistence regarding ability to carryout simple 1 of 2-step instructions; and that he markedly limit in understanding and memory regarding ability to remember locations and work-like procedures, understand and remember **detailed** instructions, and sustained concentration and persistence regarding ability to carryout **detail** instructions, and maintain attention and concentration for extended periods (Medical Packet, Page 19).

### 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 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 416.920(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 April 20, 2012.

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 mental residual functional capacity assessment report states that claimant is moderately limited in ability to understand and remember 1 or 2-step instructions and to carry out simple, 1 of 2-step instructions; and that he is markedly limited in ability to understand and remember detailed instructions. This information does not establish claimant's significant inability to understand, remember, and carry out simple basic work activities, as defined above.

The question is whether the claimant's combination of medically diagnosed mental/physical disorders is 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?

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 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 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:

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