

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

**IN THE MATTER OF:**



Reg. No: 201235692  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: April 26, 2012  
Branch 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 26, 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 application on August 15, 2011 was denied on January 26, 2012 per BEM 260, with a hearing request on February 16, 2012.
2. Claimant was 60, with a high school plus education, and history of unskilled/semi-skilled work (Medical Packet, Page 119).
3. Claimant last worked January 2010.
4. Claimant alleges disability due to a combination of multiple medically diagnosed mental/physical impairments (Medical Packet, Page 228).
5. Functional capacity evaluation on March 29, 2011, states the Claimant can occasionally torso lift 5 pounds, leg lift 5 pounds, shoulder lift 5 pounds, and carry 1 pound; that she can frequently torso lift, leg lift, 12 inch lift, shoulder lift, overhead lift, carry, push/pull 1 pound; that she can constantly sit, stand, and walk; that she can occasionally bend and squat,

that she can never reach, kneel, crawl and climb; that she can do simple grasping with left and right hands, find work, and low speed assembly work; and that she is qualified for part-time work (Medical Packet, Page 256).

6. Medical exam on July 24, 2011, states the Claimant musculoskeletally has no muscle aches or joint pain, and no weakness; that she is alert and oriented x3 and in no apparent distress; that she has a good range of motion of her neck; that musculoskeletally she has 5/5 strength globally; that cranial nerves II-XII are grossly intact; that there is no sensory or motor deficits; that she is alert, oriented x3, and in no acute distress; that neck inspection is normal; that back inspection is normal; that extremities exhibit normal range of motion; and that there is no motor deficit or sensory deficit (Medical Packet, Pages 177-182).
7. Medical exam on September 28, 2011, states that neurologically the Claimant is alert and oriented x4; and that cranial nerves II-XII are grossly intact (Medical Packet, Page 66).
8. Medical exam on October 1, 2011, states the Claimant is alert, oriented x3 and in no acute distress; that back inspection is normal; that extremities exhibit normal range of motion (Medical Packet, Page 159).

### **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 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 416.912(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 January 2010.

Disability is denied at Step 2. The medical evidence of record does not establish, on date of application, 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 disorder is non-severe or severe, as defined above. Stated differently, do the combination of Claimant's diagnosed mental/physical disorders impair the 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, as defined above. Therefore, a combination of severe mental/physical impairments meeting the one year continuous duration requirement, as defined above, 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: May 21, 2012

Date Mailed: May 21, 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:

