

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

IN THE MATTER OF:



Reg. No: 201236889
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: May 22, 2012
Cheboygan 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, May 22, 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 July 6, 2011 was denied on February 22, 2012 per BEM 260/261, with a hearing request on March 1, 2012.
2. Claimant was age 25, with a 12th grade education, and history of unskilled/semi-skilled work (Medical Packet, Page 83).
3. Claimant ended his last self-employment on June 6, 2011.
4. Claimant alleges disability based on a combination of multiple medically diagnosed mental/physical disorders (Medical Packet, Page 156).
5. Medical reports state the Claimant on:
 - a. October 21, 2011, was cooperative and answering questions and following commands; that her immediate, recent and remote memory is intact with normal concentration; that her insight and judgment are both appropriate; that mental status was normal; that

there is no evidence of joint laxity, creptiance or effusion; that grip strength remains intact; that dexterity is unimpaired; that she could pick-up a coin, button clothing and open a door; that she had no difficulty getting on and off the examination table, no difficulty heel and toe walking, no difficulty squatting, and mild difficulty hopping; that straight leg raising is negative; that there is no paravertebral muscle spasms; that range of motion study of the joints are normal for the dorsal lumbar spine, cervical spine, shoulders, elbows, wrists, knees, hips, ankles, and hands-fingers; that her cranial nerves are intact; that motor strength and tone are normal; that sensory is intact to light touch and pinprick; that reflexes are intact and symmetrical; that she walks with a normal gait without the use of an assistive device; that she had no difficulty with her grip strength and dexterity; that she had no difficulty doing orthopedic maneuvers; that physical her degree of impairment appears mild but not actively declining; and that her prognosis appear fair but potential treatable (Medical Packet, Exhibit A, Pages 14-17).

- b. October 26, 2011, had a GAF score 55 (Medical Packet, Page 6).

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 416.912(a).

When determining disability, the federal regulations are used as a guideline and 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 6, 2011.

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 severe mental/physical impairment 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).

Medical evidence of record established the Claimant's GAF score of 55 in October 2011. This is considered a non-severe impairment with occupational functioning. DSM-IV (4th edition-revised).

The medical reports of record are mostly examination, 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)(a) and (2). Stated differently, does the combination mental/physical impairment impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical evidence of record established a combination non-severe impairment, as defined above. Therefore, a combination severe mental/physical impairment meeting the one year continuous duration requirement, as defined above, 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, on date of application, does not establish a severe impairment meeting/equaling a Social Security listed impairment and the duration requirement.

The Listing of impairments describes for each of the major body systems, impairments which are considered severe enough to prevent a person from doing any gainful activity. Most of the listed impairments are permanent or expected to result in death, or a specific statement of duration is made. For all others, the evidence must show the one year continuous duration. 20 CFR 416.925(a).

Claimant introduced no medical evidence of record by a treating, examining, or non-examining physician that Claimant's impairments would meet the requirements for any Social Security listed impairment. To the contrary, the SHRT medical consultant addressed the matter and found insufficient medical evidence of disability under a Social Security listing.

If disability had not already been denied at Step 2, it would have been denied at Step 4. The medical evidence of record, on date of application, does not establish Claimant's inability, despite her impairments, to perform any of her past work for the required one year continuous duration.

If disability had not already been denied at Step 2, it would have been denied at Step 5. 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 the Claimant was without a 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 25, with a 12th grade education, and unskilled/semi-skilled work history 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: May 23, 2012

Date Mailed: May 24, 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:

