

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201245256  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: July 10, 2012  
Jackson 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, an in-person hearing was held on Tuesday, July 10, 2012. Claimant appeared with her authorized representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**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 September 27, 2011 was denied on January 27, 2012 per BEM 260, with a hearing request on April 5, 2012.
2. Vocational factors: Age 49, with high school or more education, and history of unskilled/skilled work (Medical Packet, Pages 6, 99 and 183).
3. Last employment ended December 23, 2011.
4. Disability is alleged due to a combination severe mental/physical impairment (Medical Packet, Page 387).
5. Medical reports state the Claimant on:

- a. September 1, 2011, can make a fist; that her grip strength is fairly normal; that there is no localized tenderness or deformity; that she has a loss of lumber lordosis; that flexion is 30 and extension is 50; that right lateral bending is 10 degrees and rotation is 15 degrees; that straight leg raising test showed her legs raised only to 45 degrees on either side; that her knees has a normal range of motion; that ankles are normal; that she ambulated fairly well; that she could do heel-toe walking and sustain on it for at least some time; that her affect and mood are congruent; that she has a normal thought process; that tone and strength is normal; that reflexes are 2+ and equal at the knees and absent at the ankles; that she has no sensory deficit; that Romberg sign is negative (Medical Packet, Page 21).
  - b. September 8, 2011, was alert and oriented x3; that she was not in any acute distress; that her lungs had a total expansion decrease 3.51cn; that her lungs are normally resonant; that there is generalized diminished air entry at the basis; and that there are no rhonchi or crackles (Medical Packet, Page 19).
  - c. September 27, 2011, had GAF score of 65 (Medical Packet, Page 17).
6. SHRT report dated May 25, 2012, states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 387).

### **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 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 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).

At Step 1, disability is not denied. The evidence of record established the Claimant has not been engaged in substantial gainful activities since December 23, 2011.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the Claimant's significantly functional incapacity to perform basic work activities due to a combination severe mental/physical impairment for a one year continuous duration, as define 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).

### **SEVERE IMPAIRMENT**

To qualify for MA-P, claimant must first satisfy both the gainful work and the duration criteria (20 CFR 416.920(a)) before further review under severity criteria. If claimant does

not have any impairment or combination of impairments which significantly limits physical or mental ability to do basic work activities, an ultimately favorable disability determination cannot result. (20 CFR 416.920(c)).

The medical evidence of record established Claimant's GAF score of 65 in September 2011. This is considered a mild mental impairment with occupational-functioning. DSM-IV (4<sup>th</sup> edition-revised).

The medical reports of record are mostly examination, diagnostic, and treatment reports. They don't provide medical assessments of Claimant's mental/physical limitations relative to her functional incapacity to perform basic work activities, as defined above. ...20 CFR 416.913(c)(1) and (2). State differently, does the combination mental/physical impairment medically impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical evidence of record does not establish a combination severe mental/physical impairment meeting the one year continuous duration requirement. It established a non-severe impairment.

If disability had not already been denied at Step 2, it would also be denied at Step 3. The medical evidence of record, on date of application, does not establish the Claimant's impairments meet/equal a Social Security listing of the required duration.

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

If disability had not already been denied at Step 2, it would also be 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 a required 1 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 closely age of 49, with a high school or more education, and unskilled/semi-skilled work history who is limited to sedentary work is not considered disabled.

Therefore, disability has not been established at Step 2 and also has not been established at Steps 3, 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, MA-P denial is **UPHELD**.

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

Date Signed: August 15, 2012

Date Mailed: August 15, 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:

