

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201265354
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 24, 2012
County: Kent

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 October 24, 2012. Claimant appeared with her authorized representative, [REDACTED] and provided testimony on her behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Attorney General, [REDACTED] and [REDACTED].

The Hearing record was extended for 90 days for a 2nd SHRT review of medical reports submitted at the hearing. (Claimant Exhibit 1).

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 April 9, 2012, was denied on July 3, 2012 per BEM 260, with a hearing request on July 12, 2012
2. Claimant was age 35 with a high school or more education and unskilled work history as a cashier, retail sales person and restaurant bartender (DHS Exhibit A, Page 34).
3. Claimant's employment ended in August 2009 due to being fired, thereafter she became an unemployment compensation benefit recipient through November 2010.

4. Claimant alleges disability due to medically diagnosed disorders of bipolar disorder, attention deficit hyperactive disorder, anxiety and obsessive compulsive disorder (DHS Exhibit A, Page 119).
5. Medical reports of exams state the Claimant on:
 - a. August 24, 2011, has psychiatric symptoms, no anxiety, and no depression (DHS Exhibit A, Page 22).
 - b. August 30, 2011, is alert and oriented to person, place and time; that neurologically her cranial nerves II-XII are intact bilateral; that she has no focal deficits (DHS Exhibit A, Page 18).
 - c. October 3, 2011, has a current GAF score of 60-65, that she was alert and oriented x3; that memory, concentration, general fund of knowledge and ability to abstract are grossly intact; that judgment was fair; and that insight was somewhat limited (DHS Exhibit A, Page).
 - d. November 14, 2011, had a current GAF score 60-65 (Claimant Exhibit 1, Page 6).
 - e. February 22, 2012, has a GAF score of 45 (DHS Exhibit A, Page 62).
 - f. February 27, 2012, had a GAF score of 45 upon admission and 50 upon discharge (DHS Exhibit A, Page 60).
 - g. May 21, 2012, has a GAF score of 54 (Claimant Exhibit 1, Page 15).
6. State Hearing Review Team (SHRT) decision dated August 30, 2012, states the Claimant's disorders do not meet/equal a Social Security listing (DHS Exhibit A, Page 119).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 416.912(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).

Step 1 disability is not denied. The evidence of record establishes the Claimant has not engaged in substantial gainful activities since August 2009.

Step 2 disability is denied. The medical evidence of record, on date of application, establishes the Claimant's significant functional mental impairment based on the de minimus standard to do basic work activities, but not for the required 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).

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 burden of proof is on the Claimant to establish disability based on the 5 step process above. ...20 CFR 416.912(a).

Claimant testified that she cannot work due to her mental impairments; and that she is unable to get along with co-workers due to her anger.

The medical evidence of record establishes the Claimant's GAF scores of 60-65 in October and November 2011, and 45 on admission and 50 on discharge in February 2012, and 54 in May 2012. 45 is considered a severe mental impairment with occupational function, 54 is considered moderate, and 61 or higher is considered mild. DSM IV (4th Edition-revised).

The medical evidence of record does not establish the Claimant's abnormal mental findings has persisted on repeated examination for a reasonable presumption to be made that a severe impairment has lasted or was expected to last at least one continuous year.

Therefore, the Claimant has not sustained her burden of proof to establish a severe mental impairment, instead of a non-severe impairment, for the required duration. Therefore, the sequential evaluation is required to stop.

If Step 2 disability had not been denied, Step 3 would also be denied. The medical evidence of record, for the required duration, does not establish the Claimant's impairments meet/equal Social Security listed impairment, therefore, the analysis will continue.

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 activities. 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 would meet the requirements of any Social Security listing. To the contrary, the SHRT medical consultant addressed the matter and found insufficient medical evidence of a disability under a Social Security listing

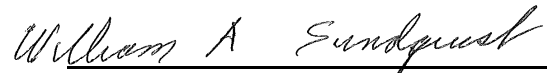
If Step 2 disability had not been denied, Step 4 would also be denied. The medical evidence of record, on date of application, does not establish the Claimant's functional mental incapacity, despite her impairments, to perform any of her past work, such as a cashier, for the required one year continuous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

Therefore, medical disability has not been established at Step 2, and also would not have been established at Steps 3 and 4 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**.



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

Date Signed: April 9, 2013

Date Mailed: April 9, 2013

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
 - the failure of the ALJ to address other relevant issues in the hearing decision

201265354/WAS

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Recons ideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

WAS/tb

cc:

