

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

IN THE MATTER OF:



Reg. No.: 2012-8302
Issue No.: 4031
Case No.: [REDACTED]
Hearing Date: February 23, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on February 23, 2012, from Detroit, MI.

ISSUE

Was the denial of claimant's application for State Disability Assistance (SDA) benefits for lack of disability correct?

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 applied for SDA on April 27, 2011.
2. Claimant is 20 years old.
3. Claimant has a high school education.
4. Claimant is not currently working.
5. Claimant is currently taking a 6-credit college workload, took a 12-credit load last semester, and takes classes over the summer.
6. Claimant has no prior relevant work history.
7. Claimant has a history of multiple sclerosis.

8. Claimant alleges current symptoms of intermittent numbness in her hands and feet, headaches once per week, and occasional issues with her bladder.
9. Claimant last had an MS relapse that consisted of extremity numbness that lasted one week, and blindness for three days.
10. This relapse occurred 2 months ago.
11. Claimant missed two days of school because of this relapse.
12. Claimant is able to perform all activities of daily living.
13. Claimant's treating sources have rated claimant as stable, able to work, with no physical or household restrictions.
14. Claimant did not testify to any lifting, standing, sitting, or walking restrictions.
15. Claimant did not testify to any mental limitations.
16. Claimant's medical records did not show any lasting restrictions.
17. On August 16, 2011, the Medical Review Team denied SDA.
18. On August 19, 2011, claimant was sent a notice of case action.
19. On October 27, 2011, claimant filed for hearing.
20. On January 3, 2012 the State Hearing Review Team denied SDA, stating that claimant could perform other work.
21. On February 23, 2012, a hearing was held before the Administrative Law Judge.

CONCLUSIONS OF LAW

The SDA program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

Federal regulations require that the Department use the same operative definition of the term "disabled" as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

Disability is defined as the inability to do any substantial gainful activity (SGA) 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.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

The first step that must be considered is whether the claimant is still partaking in SGA. 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2011 is \$1,640. For non-blind individuals, the monthly SGA amount for 2011 is \$1,000.

In the current case, claimant has testified that she is not working, and the Department has presented no evidence or allegations that claimant is engaging in SGA. Therefore, the Administrative Law Judge finds that claimant is not engaging in SGA and, thus, passes the first step of the sequential evaluation process.

The second step that must be considered is whether or not the claimant has a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual's physical or mental ability to perform basic work activities. The term "basic work activities" means 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 purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, claimant has presented medical evidence of multiple sclerosis, according to the great weight of the evidence by both the Department and claimant’s treating source. However, the symptoms described by the claimant, and supported by independent medical evidence, do not support the existence of a condition that would result in an impairment that would limit claimant’s ability to perform basic work activities for a period of 90 days.

Records indicate that claimant has no difficulty standing and walking for very long periods of time. Claimant did not testify to any standing, lifting, or walking restrictions. Claimant is currently enrolled part time in college, and is coming off a semester where she was enrolled full time. Claimant was maintaining her grades, and did not express difficulty in maintaining college course work.

Claimant’s last MS relapse was [REDACTED], and caused her to miss two days of school. Claimant testified to extremity numbness during this time that lasted for one week and blindness that lasted for three days. While these are very serious symptoms, the symptoms and limitations imposed by claimant’s MS relapse did not last for 90 days. Claimant alleges current symptoms, including extremity numbness, headaches, and occasional bladder issues; however, claimant does not allege that these symptoms affect her ability to perform work-related activities. The extremity numbness is intermittent, the headaches occur once per week, and the bladder issues are only occasional.

Claimant does not allege any difficulty in performing activities of daily living, any side effects from her medications, or any mental limitations. Treating sources have stated that claimant has no physical restrictions and is capable of working any job with no restrictions.

While claimant does have occasional MS relapses, there is nothing in the medical record to indicate that claimant has permanent symptoms from her MS at this point in her life. Claimant’s current MS relapses, while providing very serious symptoms, do not

show symptoms that affect basic work activities for more than 90 days. By claimant's own testimony, her last relapse lasted one week and took her out of school for two days, which is far short of the durational requirements needed at this stage in the five-step process. Therefore, the undersigned holds that claimant's condition does not appear likely to last for the 90-day duration required by the regulations.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c).

The medical record as a whole does not establish any impairment that would impact claimant's basic work activities for a period of 90 days. There are no current medical records in the case that establish that claimant continues to have symptoms from a serious medical impairment. There is no objective medical evidence to substantiate claimant's claim that the impairment or impairments are severe enough to reach the criteria and definition of disabled. Accordingly, after careful review of claimant's medical records, this Administrative Law Judge finds that claimant is not disabled for the purposes of the State Disability Assistance (SDA) program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not disabled for the purposes of the SDA program. Therefore, the decision to deny claimant's application for SDA was correct.

Accordingly, the Department's decision in the above-stated matter is, hereby, **AFFIRMED**.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 21, 2012

Date Mailed: March 22, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

