

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201211969
Issue No: 2009
Case No: [REDACTED]
Hearing Date: February 8, 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. Medical reports (claimant Exhibit A) submitted at the hearing for second SHRT review delayed the Decision and Order below with the Claimant's approval. After due notice, in-person hearing was held on February 8, 2012. Claimant personally appeared with her authorized hearing representative, [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. On May 31, 2011, Claimant applied for Medicaid (and February retro), was denied on August 27, 2011, per BEM 260, and requested a hearing on November 8, 2011.
2. Claimant was age 51, with a high school or more education, and history of semi-skill/skilled work.
3. In September 2011, Claimant left her last employment.
4. Claimant alleges disability due to multiple medically diagnosed physical impairments in combination.
5. Medical exam on July 16, 2010, states the Claimant's condition is improving. (Medical Packet, p. 35).

6. Medical exam on October 15, 2010, states the Claimant's condition is stable. (Medical Packet, p. 33).
7. Medical exam on February 3, 2011, states the Claimant continues to work at [REDACTED] 20 hours per week; she plans to add a second job, which will include cleaning trailers at the residence where she is currently living. (Medical Packet, p. 28).
8. Medical exam on February 11, 2011, states the Claimant is well-developed, well-nourished, and currently is in mild distress; that musculoskeletally she appears to be developed symmetrically. (Medical Packet, p. 46).
9. Medical exam on March 11, 2011, states the Claimant is in no acute distress, well developed and well nourished; that her gait is normal; that manual muscle testing is 5/5 for bilateral lower extremity; that she has negative straight leg raise in seated position. (Medical Packet, p. 31).
10. Medical exam on January 5, 2012, states neurologically both knee and ankle reflexes are bilaterally symmetrical and normal; that she has normal strength in each group of muscles. (Claimant Exhibit A, p. 7).
11. Medical exam on January 5, 2012, states the Claimant is well-developed, well-nourished, and in no acute distress; that neurologically, cranial nerves II through XII are grossly intact; that her power is 4/5 in bilateral in upper and lower extremities; that sensation is intact to light touch and pinprick; that musculoskeletally she has positive straight leg raise raising test on the left side. (Claimant Exhibit A, p. 5).
12. Medical exam on January 5, 2012, states the Claimant is alert, awake, and in no respiratory distress. (Claimant Exhibit A, p. 2).
13. SHRT report dated December 19, 2011, states the Claimant's impairments do not meet/equal a Social Security listing. (Medical Packet, Page 111).

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 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 September 2011.

Disability is denied at step 2. The medical evidence of record does not establish a severe physical impairment, on dated application, that had prevented the Claimant from performing basic work activities and had lasted or was expected to last for a 1-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 for this ALJ is whether the Claimant's medically diagnosed disorders and disabling complaints are severe or non-severe, as defined above. Said in another way, do the Claimant's medically diagnosed disorders and disabling complaints impair him 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 work limitation/restrictions relative to inability to perform basic work activities, as defined above.

Therefore, disability meeting the duration requirement of 1 continuous year has not been established by the preponderance of a medical evidence of record.

If disability had not been denied at step 2, the analysis would proceed to step 3 with the medical evidence of record does not establish a severe physical impairment in combination meeting/equaling a Social Security listed impairment and the duration requirement.

If disability had not already been denied at step 2, it would be denied at step 4 where the medical evidence of record, on dated application, does not establish Claimant's inability, despite its impairments, to perform any of his past work for the required 1-year continuous duration.

If disability had not been already denied at step 2, it would be denied at step 5 where the medical evidence of record, on date of application, does not establish the Claimant was without a residual functional capacity (RFC), despite his impairments, to perform any other work in the national economy for the 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 that the Claimant was without an RFC for less strenuous work than his past work, such as sedentary work, as defined above. Under the medical-vocational guidelines, an individual closely approaching advanced age of 51, with a high school or more education and semi-skilled/skilled work history who is limited to sedentary work is not considered disabled.

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 denial is **UPHELD**.

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

Date Signed: March 8, 2012

Date Mailed: March 8, 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

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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/kl

cc:

