

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201212127
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. After due notice, an in-person hearing was held on Wednesday, February 8, 2012. Claimant appeared with her authorized representative, [REDACTED].

Medical reports (Claimant Exhibit A) submitted at the hearing for a second SHRT review delayed the decision and order below with the claimant's approval.

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 February 18, 2010, claimant applied for MA-P (and January retro), was denied on August 19, 2011 per BEM 260, and requested a hearing on November 14, 2011.
2. Claimant was age 43, with a 10th grade education, and history of semi-skilled work.
3. In March 2006, claimant quit her last job.
4. On date of application claimant alleges disability due to mental/physical impairments in combination.
5. Medical exam on January 22, 2010, states the claimant at time of admission had a GAF score 30 and on January 25, 2010 had discharge a GAF score of 55 (Medical Packet, Pages 120 and 12).

6. Medical exam on May 17, 2010, states the claimant's GAF score of 45 (Claimant Exhibit A, Page 28).
7. Medical exam on November 18, 2010, states the claimant has no depression symptoms or psychosis symptoms (Medical Packet, Page 41).
8. Medical exam on April 26, 2011, states the claimant is alert and oriented x3; that mental status is normal; that motor examination was normal; and that coordination was normal (Claimant Exhibit A, Pages 4 and 5).
9. Medical exam on April 26, 2011, states the claimant is oriented x3; that cranial nerves II-XII are intact (Claimant Exhibit A, Page 9).
10. Medical exam on April 26, 2011, states the claimant has a full range of motion of extremities (Claimant Exhibit A, Page 13).
11. Medical exam on July 7, 2011, states the claimant's strength is 5/5 in all extremities; that sensation is intact; that reflexes are symmetrical; that Babinski is negative; that gait is intact; that claimant is able to get on and off the examination table; and that she can squat and walk on her heels and toes (Medical Packet, Page 178).
12. Medical exam on July 7, 2011, states the claimant has a normal range of motion in the lumbar spine; that she is able to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pickup coin, pickup pencil, write, squat and arise from squatting; get on and off examining table, climb stairs; the she is able to walk on heels and toes; that her gait is stable and within normal limits; that her grip strength is 5/5 (Medical Packet, Pages 174-177).
13. Medical exam on July 7, 2011, states the claimant GAF score of 62 (Medical Packet, Page 169).
14. SHRT report dated December 29, 2011, states the claimant's impairments does not meet/equal a social security listed impairment (Medical Packet, Page 187).

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).

At Step 1, disability is not denied. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since March 2006.

At Step 2, disability is denied. The medical evidence of record does not establish a severe mental/physical impairment, on date of application, that had prevented the claimant from performing basic work activities, and had lasted or was expected to last 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).

The question for the Administrative Law Judge 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 her slightly, mildly, moderately (non-severe, as defined above) or severely, as defined above?

The medical evidence of record establishes the claimant's GAF score of 30 and 55 in January 2010, 45 in May 2010, and 62 in July 2011. Scores of 50 and below are considered a severe mental impairment with occupational functioning. And 62 non-severe (mild) with occupational functioning. DSM IV (4th edition-revised).

The medical evidence of record does not establish abnormal mental findings that are shown to persist on repeated examinations despite therapy that a severe mental impairment will last for a continuous period of one year.

Also the medical reports of record are diagnostic and treatment reports, and do not provide medical assessments of claimant's work limitations relative to inability to perform basic work activities, as defined above.

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

If disability had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of record does not establish a severe mental impairment meeting/equally 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. 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 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 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 an 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 43, with a 10th grade education, and 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 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: April 3, 2012

Date Mailed: April 4, 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.

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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:

