

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

IN THE MATTER OF:



Reg. No: 201219559
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: February 23, 2012
Van Buren 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, a telephone hearing was held on Thursday, February 23, 2012. Claimant personally appeared and testified on her behalf.

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 August 30, 2011, claimant applied MA-P/SDA, was denied on November 23, 2011 per BEM 264/261, and requested hearing on December 12, 2011.
2. Claimant's vocational factors: age 20, high school education, and unskilled adult caregiver.
3. In March 2011, claimant had quit her caregiver job for physical reasons.
4. On date of application, claimant alleged disability due to degenerative disc disease and osteonecrosis.
5. Medical exam on September 22, 2010, states that musculoskeletal there is no evidence of synovitis involving the small joints of the hands, wrists, elbows, shoulders, knees, hips, ankles, and feet; that neurological tone, power and reflexes are normal in both upper and lower extremities group of muscles; that testing of the intrinsic muscles of the hands demonstrates normal power; and that sensory system examinations does not

demonstrate any sensory deficits in the ulnar, median and radial nerve distribution (Medical Packet, Page 85).

6. Medical exam on November 3, 2010, states the neurological examination, tone, power, and reflexes are normal in both upper and lower extremities group of muscles (Medical Packet, Page 82).
7. Medical exam on June 9, 2011, states the claimant musculoskeletal denies swollen or inflamed joints, artificial joints, deformed joints, severe arthritis or gout; and that she appears healthy and no distress; that the lumbar spine has mild lost of range of motion that is worse with flexion; that paravertebral muscle spasms is absent throughout the spine; that midline tenderness is mild and in the mid lumbar region; that sacroiliac joint tenderness is not noted; that straight leg raised test is negative bilateral; that strength in both legs is normal; that tendon reflexes are normal; that sensation is normal in both legs; that the patient gait is normal; and that at her young age she is without instability (Medical Packet, Page 30-31).

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or 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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 medical evidence of record establishes, on date of application, that the claimant had not been engaged in substantial gainful work since her last employment in March 2011.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the claimant's significant inability to perform **basic work activities** due to a **severe** physical impairment 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).

The question in this case, is whether the claimant's medically diagnosed disorders and disabling complaints impair the claimant slightly, mildly, moderately (non-severe impairment as defined above) or severely, as defined above?

Most of the medical reports of record are examination, diagnostic or treatment reports, and do not provide medical assessments of claimant's work limitations/restrictions relative to inability to perform basic work activities, as defined above, nor her past work and sedentary work activities, as defined above. ..20 CFR 416.913(c)(1)(2).

The medical evidence of record establishes a non-severe impairment. Therefore, a severe physical impairment beginning before application for the one year continuous duration has not been established

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

Therefore, disability has not been established at Step 2 by the competent, material and substantial material 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/SDA denial is **UPHELD**.

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

Date Signed: March 6, 2012

Date Mailed: March 7, 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.

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:

