

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201224889
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: March 8, 2012
Kent 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, March 8, 2012. Claimant appeared and testified on her own 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. Claimant applied for MA-P/SDA on August 8, 2011, was denied on November 30, 2011 per BEM 264/261, and requested a hearing on January 11, 2012.
2. Claimant was age 48, with a high school plus education, and history of unskilled/skilled work.
3. Claimant alleges disability due to multiple medically diagnosed physical impairments in combination.
4. Claimant quit her last job on May 6, 2011 to assist her mother with a medical condition.
5. Medical exam on June 5, 2011, states the claimant is well-developed in moderate pain sitting in a wheelchair; that musculoskeletally on examination of the back claimant had no tenderness of the back; that she had poor reflexes in both lower extremities; that she had good movement; that there was no increase pain with straight leg raising on the left; that she had sciatica of the left leg (Medical Packet, Page 92).

6. Medical Exam on September 27, 2011, states that the claimant musculoskeletally has a full passive non-painful range of motion in the hips, knees and ankles bilaterally without evidence of instability; that she has no clear weakness in her gait; that she has no abnormalities of the spine; that seated straight leg raise is negative right and left; that motor testing reveals intact strength bilateral lower extremities (Medical Packet, Pages 116 and 119).
7. Medical exam on October 21, 2011, states the claimant was normal in the general areas, respiratory, and cardiovascular (Medical Packet, Page 97).
8. Medical exam on October 27, 2011, states that the claimant can lift/carry frequently less than 10 pounds, occasionally 20 pounds; that she can stand and/or walk at least 2 hours in a 8 hour work day; that she can sit less than 6 hours in a 8 hour work day; that she needs no assistive device for ambulation; that she can use her extremities for repetitive action (Medical Packet, Page 98).

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 are used as a guide 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).

At Step 1, disability is not denied. The evidence of record establishes that the claimant has not been engaged in substantial gainful work since May 6, 2011.

At Step 2, disability is denied. The medical evidence of record does not establish the claimant's significant inability to perform basic work activities due to a severe physical impairment in combination 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 is whether the claimant's medically diagnosed physical disorders in combination are non-severe or severe based on the definition above. Said in another way, do the claimant's medically diagnosed physical disorders in combination 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 diagnostic and treatment reports and do not provide medical assessments of claimant's physical limitations/restrictions relative to ability to perform basic work activities, as defined above20 CFR 416.913(c)(1)(2).

The medical evidence of record establishes a non-severe impairment in combination. Therefore, a severe physical impairment in combination meeting 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 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 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 15, 2012

Date Mailed: March 19, 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:

