

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201226934
Issue No: 2009
Case No: [REDACTED]
Hearing Date: June 20, 2012
Macomb County DHS #12

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 June 20, 2012. Claimant appeared and provided testimony on his behalf along with attorney, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Was disability 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. MA-P/SDA application on October 5, 2011 was denied on December 28, 2012 per BEM 260 with a hearing request on January 3, 2012
2. Vocational factors: Age 48, with a GED education, and unskilled janitorial work history.
3. Last employment ended September 2011 after being released from prison.
4. Disability is alleged due to a combination of mental/physical impairments (Medical Packet, Pg. 154).
5. Medical reports of record state the Claimant on:
 - a. April 5, 2011: Has a GAF score of 65 (Medical Packet, Pgs. 74-75).

- b. April 26, 2011: Has a GAF score of 65 (Medical Packet, Pg. 70).
- c. April 29, 2011: Has a GAF score of 65 (Medical Packet, Pg. 68).
- d. May 3, 2011: Has a GAF score of 55 (Medical Packet, Pg. 65).
- e. May 4, 2011: Has a GAF score of 65 (Medical Packet, Pg. 63).
- f. May 5, 2011: Has a GAF score of 65 (Medical Packet, Pg. 60).
- g. May 25, 2011: Has a GAF score of 55 (Medical Packet, Pg. 55).
- h. June 2, 2011: Has a GAF score of 55 (Medical Packet, Pg. 47).
- i. June 30, 2011: Has a GAF score of 55 (Medical Packet, Pg. 36).
- j. July 14, 2011: Has a GAF score of 55 (Medical Packet, Pg. 38).
- k. July 28, 2011: Has a GAF score of 61 (Medical Packet, Pg. 28).
- l. October 19, 2010: Has a normal PMI; that he has no extra sound or murmurs; that right and rhythm of heart is regular; that he has no edema present; that he has full range of motion; that he has normal mobility and curvature of the cervical spine, thoracic spine, and lumbar spine (Medical Packet, Pgs. 92 & 93).
- m. October 20, 2011: Has a current and last year GAF score of 45 (Medical Packet, Pg. 145).
- n. October 25, 2011: Is alert and oriented x3; and that his condition is improving (Medical Packet, Pg. 147).
- o. August 16, 2011: Has a GAF score of 61 (Medical Packet, Pg. 22).
- p. September 19, 2011: Has a GAF score of 61 (Medical Packet, Pg. 13).
- q. January 6, 2012: He is well-nourished and well-hydrated; that his extremities have no pulling or cyanosis; that he has no joint swelling; that he has normal muscle tone; that his sensation is grossly intact; that psychiatrically he is alert and oriented; that he has appropriate behavior and judgment (Claimant Exhibit A, Pg. 3).
- r. April 19, 2012: Has a current GAF and last year score of 45 (Claimant Exhibit A, Pgs. 21-24).

- s. April 19, 2012: Has a current and last year GAF score of 45 (Claimant Exhibit A, Pg. 24).
6. State Hearing Review Team decision dated March 1, 2012 states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 153).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 416.912(a).

When determining disability, the federal regulations are used as a guideline 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).

Step 1, the evidence of record established the claimant has not been engaged in substantial gainful activities since September, 2011. Therefore, the analysis continues to Step 2.

Step 2, the medical evidence of record, on date of application, does not establish the Claimant's significant functional incapacity to perform basic work activities due to a combination severe mental/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).

SEVERE IMPAIRMENT

To qualify for MA-P, claimant must first satisfy both the gainful work and the duration criteria (20 CFR 416.920(a)) before further review under severity criteria. If claimant does not have any impairment or combination of impairments which significantly limits physical or mental ability to do basic work activities, an ultimately favorable disability determination cannot result. (20 CFR 416.920(c)).

The medical evidence of record established the claimant's GAF scores of 65 for the months of April through May 2011; 55 for May through July 2011, 61 in July through September 2011, and 45 in October 2011 and April 2012.

45 is considered a severe mental impairment with occupational-functioning. 55 is considered a moderate mental impairment with occupational-functioning. And 61 & 65 a mild mental impairment with occupational-functioning. In April 2012 Claimant had a score of 45 with a last year score of 45 (April 2011). This last year score is inconsistent with three current scores at the time of 65. Also, in October 2011 the medical evidence of record shows that the Claimant's mental/physical condition is improving and that Claimant's heart condition is normal. DSM-IV (4th edition-revised).

Therefore, based on the above, a severe mental impairment meeting the one (1) continuous duration was not established.

The medical evidence of record does not establish a combination severe mental/physical impairment meeting the 1 year continuous duration requirement. Therefore, disability is denied at Step 2.

If disability had not been denied at Step 2, it would also be denied at Step 3. The medical evidence of record does not establish the Claimant's impairments meet/equal a Social Security listed impairment for the required duration.

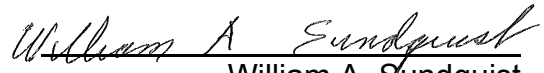
If disability had not been denied at Step 2, it would also be denied at Step 4. The medical evidence on record, on date of application, does not establish the claimant's inability, despite his impairments, to perform any of his past janitorial work for the required one year continuous duration.

Therefore, disability has not been established at Step 2 and also would not be established at Steps 3, 4 & 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 disability was not medically established.

Accordingly, MA-P denial is **UPHELD**.


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

Date Signed: April 9, 2013

Date Mailed: April 9, 2013

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.

Claimant may request a rehearing or reconsideration for the following reasons:

201226934/WAS

- 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
Recons ideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

WAS/jk

cc:

