

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201234819
Issue No: 4031
Case No: [REDACTED]
Hearing Date: May 8, 2012
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. Claimant's request for a hearing was received on February 21, 2012. After due notice, a telephone hearing was held on Tuesday, May 8, 2012. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. One page of additional medical evidence was received and the record was closed on June 11, 2012. The Claimant personally appeared and provided testimony, and was represented by [REDACTED].

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant did not meet the disability standard for State Disability Assistance (SDA)?

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 25, 2012, the Claimant submitted an application for State Disability Assistance (SDA) benefits alleging disability.
2. On January 19, 2012, the Medical Review Team (MRT) determined that the Claimant did not meet the disability standard for State Disability Assistance (SDA) because it determined that the Claimant's impairments do not prevent employment for over 90 days.
3. On January 31, 2012, the Department sent the Claimant notice that it had denied the application for assistance.
4. On February 21, 2012, the Department received the Claimant's hearing request, protesting the denial of disability benefits.

5. On April 5, 2012, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of SDA benefits.
6. The Claimant applied for federal Supplemental Security Income (SSI) benefits at the Social Security Administration (SSA).
7. The Social Security Administration (SSA) denied the Claimant's federal Supplemental Security Income (SSI) application and the Claimant reported that a SSI appeal is pending.
8. The Claimant is a 49-year-old woman whose birth date is [REDACTED]. Claimant is 5' 7" tall and weighs 282 pounds. The Claimant attended school through the 10th grade. The Claimant is able to read and write and does have basic math skills.
9. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
10. The Claimant has past relevant work experience as a sandwich maker.
11. The Claimant alleges disability due to Hepatitis C, bipolar disorder, schizophrenia, diabetes, and hypertension.
12. The objective medical evidence indicates that the Claimant is perceptually oriented and presents ideas in a logical and coherent fashion.
13. The objective medical evidence indicates that the Claimant has an anxious and paranoid affect.
14. The objective medical evidence indicates that the Claimant has been diagnosed with paranoid schizophrenia with delusions, auditory hallucinations, and panic attacks.
15. The objective medical evidence indicates that the Claimant has moderate difficulty in social and occupational functioning.
16. The objective medical evidence indicates that the Claimant has a history of hypertension that is being treated with medication.
17. The objective medical evidence indicates that the Claimant has a history of type II diabetes.
18. The Claimant is capable of shopping for groceries, vacuuming and sweeping floors, and visiting her brother at a hospital.
19. The Claimant testified that she reads on a daily basis.

20. The Claimant is capable of walking for two blocks and standing for up to 20 minutes.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. MAC R 400.903. Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (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 Program Reference Manual (PRM).

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261.

- A person is disabled for SDA purposes if she:
- Receives other specified disability-related benefits or services, or
- Resides in a qualified Special Living Arrangement facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS). BEM 261.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is not disabled.
2. Does the client have a severe impairment that has lasted or is expected to last 90 days or more or result in death? If no, the client is not disabled.
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.

4. Can the client do the former work that she performed within the last 15 years? If yes, the client is not disabled.
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, client is not disabled.

At step one, the undersigned must determine whether the Claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the Claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921). If the Claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the Claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the Claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the Claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the Claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the Claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(c)). An individual's residual functional capacity is his ability to do physical and

mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the Claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the Claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the Claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the Claimant to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the Claimant has the residual functional capacity to do his past relevant work, the Claimant is not disabled. If the Claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the Claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the Claimant is able to do other work, he is not disabled. If the Claimant is not able to do other work and meets the duration requirement, he is disabled.

STEP 1

At Step 1, a determination is made on whether the Claimant is engaging in substantial gainful activity (20 CFR 416.920(b)). Substantial gainful activity is defined as work activity that is both substantial and gainful; and involves doing significant physical or mental activities. Gainful work activity is work activity that you do for pay or profit (20 CFR 416.972). If you are engaged in substantial gainful activity, you are not disabled regardless of how severe your physical or mental impairments are and regardless of your age, education, and work experience. Whether the Claimant is performing substantial gainful activity will be determined by federal regulations listed in 20 CFR 416.971 through 416.975.

The Claimant is not engaged in substantial gainful activity and is not disqualified from receiving disability at Step 1.

STEP 2

At Step 2, the Claimant has the burden of proof of establishing that she has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 90 days.

The Claimant is a 49-year-old woman that is 5' 7" tall and weighs 282 pounds. The Claimant alleges disability due to Hepatitis C, bipolar disorder, schizophrenia, diabetes, and hypertension.

The objective medical evidence indicates the following:

The Claimant is perceptually oriented and presents ideas in a logical and coherent fashion. The Claimant demonstrates an anxious and paranoid affect. The Claimant has been diagnosed with paranoid schizophrenia with delusions, auditory hallucinations, and panic attacks. The Claimant has moderate difficulty in social and occupational functioning.

The Claimant has a history of hypertension that is being treated with medication.

The Claimant has a history of type II diabetes.

The Claimant is capable of shopping for groceries, vacuuming and sweeping floors, and visiting her brother at a hospital. The Claimant reads on a daily basis. The Claimant is capable of walking for two blocks and standing for up to 20 minutes.

This Administrative Law Judge finds that the Claimant has established a severe physical impairment that meets the severity and duration standard for SDA purposes.

STEP 3

At Step 3, the Claimant's impairments are evaluated to determine whether they fit the description of a Social Security Administration disability listing in 20 CFR Part 404, Subpart P, Appendix 1. A Claimant that meets one of these listing that meets the duration requirements is considered to be disabled.

The Claimant's impairment failed to meet the listing for bipolar disorder (12.04 affective disorders) or 12.03 Schizophrenic disorders, because the objective medical evidence does not demonstrate that the Claimant has marked restrictions of her activities of daily living or social functioning. The objective medical evidence does not demonstrate that the Claimant suffers from repeated episodes of decompensation or that she is not capable of functioning outside a highly supportive environment.

The Claimant's impairment failed to meet a listing for Hepatitis C (5.05 Chronic liver disease) because the objective medical evidence does not demonstrate that the Claimant suffers from severe hemorrhaging requiring hospitalization and a transfusion of at least 2 pints of blood. The objective medical evidence does not demonstrate that the Claimant suffers from ascites or hydrothorax not attributable to other causes. The objective medical evidence does not demonstrate that the Claimant suffers from spontaneous bacterial peritonitis. The objective medical evidence does not demonstrate that the Claimant suffers from hepatorenal syndrome. The objective medical evidence does not demonstrate that the Claimant suffers from hepatopulmonary syndrome.

The Claimant's impairment failed to meet a listing for diabetes and hypertension because the objective medical evidence does not demonstrate that she meets a listing in another body system, and she may or may not have the residual functional capacity to engage in substantial gainful activity despite these impairments.

The medical evidence of the Claimant's condition does not give rise to a finding that she would meet a statutory listing in federal code of regulations 20 CFR Part 404, Subpart P, Appendix 1.

STEP 4

At Step 4, the Claimant's residual functional capacity (RFC) is examined to determine if you are still able to perform work you have done in the past. Your RFC is your ability to do physical and mental work activities on a sustained basis despite limitations from your impairments. Your RFC is assessed using all the relevant evidence in the record. If you can still do your past relevant work you are not disabled under these standards.

After careful consideration of the entire record, the undersigned finds that the Claimant has the residual functional capacity to perform sedentary as defined in 20 CFR 404.1567(b) and 416.967(b).

The Claimant has a history of past relevant work making sandwiches.

The Claimant has moderate difficulty in social and occupational functioning. The Claimant is capable of shopping for groceries, vacuuming and sweeping floor, and walking for two blocks.

There is no evidence upon which this Administrative Law Judge could base a finding that the Claimant is unable to perform work in which she has engaged in, in the past.

STEP 5

At Step 5, the burden of proof shifts to the Department to establish that the Claimant has the Residual Functional Capacity (RFC) for Substantial Gainful Activity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and 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 objective medical evidence indicates that the Claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior employment and that she is physically able to do light or sedentary tasks if demanded of her. The Claimant's activities of daily living do not appear to be very limited and she should be able to perform light or sedentary work even with her impairments. The Claimant's testimony as to her limitations indicates that she should be able to perform sedentary work.

The Claimant was able to answer all the questions at the hearing and was responsive to the questions. The Claimant was oriented to time, person and place during the hearing.

Claimant is 49-years-old, a younger person, under age 50, with a limited education, and a history of unskilled work. Based on the objective medical evidence of record Claimant has the residual functional capacity to perform sedentary work, and State Disability Assistance (SDA) is denied using Vocational Rule 20 CFR 201.18 as a guide.

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 261. 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 the 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.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that the Claimant was not eligible to receive State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has appropriately established on the record that it was acting in compliance with Department policy when it denied the Claimant's application for State Disability Assistance benefits. The Claimant should be able to perform a wide range of sedentary work even with her impairments. The Department has established its case by a preponderance of the evidence.

Accordingly, the Department's decision is **AFFIRMED**.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 14, 2012

Date Mailed: June 14, 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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

KS/tb

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