

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201241951
Issue No: 4031
Case No: [REDACTED]
Hearing Date: June 5, 2012
Berrien 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 Tuesday, June 5, 2012. Claimant appeared and provided testimony on her behalf.

Continuance of the hearing to obtain additional medical reports was denied per MAC R 400.915.

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's SDA application on February 10, 2012 was denied on March 14, 2012 per BEM 261, with a hearing request on March 21, 2012.
2. Claimant was 50, with a 10th grade education, and semi-skilled work history as a [REDACTED].
3. Claimant ended her last employment on December 13, 2004.
4. Claimant alleges disability due to a combination of physical impairments.
5. Medical reports state that Claimant on:
 - a. December 22, 2011, had no acute intracranial hemorrhage demonstrated (Medical Packet, Page 106).

- b. December 26, 2011, has no joint pain; that she doe have some back problems; that she appears to be generally well-developed, well-nourished female in no acute distress; that she is cooperative; that cardiovascularly she has a regular rate and rhythm, no murmurs, rubs or gallops; that her lungs are clear to auscultation bilaterally; that she has no wheezing, rhonchi or cracklas; that she has no weakness or calf tenderness; that she has a full range of motion and a 5/5 strength in all her extremities; that neurologically she has focal deficits; that sensation is intact; and that her speech is clear (Medical Packet, Page 123).

- c. January 30, 2012, appeared to be generally well-developed, well-nourished and in no acute distress; that cardiovascularly she has regular rate and rhythm, and no murmurs, rubs or gallops; that lungs are clear to auscultation bilaterally; that she has no wheezing, rhonci or cracklas; that there is no weakness noted in her extremities or calf tenderness; that she has a full range of motion and 5/5 strength in all her extremities; that neurologically she has no focal deficits; that her sensation is intact and speech is clear; that cardiovascularly she has a normal rate and regular rhythm; that her pulmonary/chest effort was normal and breath sounds normal; that musculoskeletally she exhibits no tenderness; that neurologically she is alert with good hand coordination and no gross abnormalities (Medical Packet, Pages 18 and 25).

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).

Facts above are undisputed.

DISABILITY

A person is disabled for SDA purposes if he:

- . 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).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. BEM, Item 261, p. 1.

...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 Claimant has the burden of proof to establish disability as defined above by the preponderance of the evidence of record and 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).

Disability is not denied at Step 1. The evidence of record establish the Claimant has not been engaged in substantial gainful work since December 13, 2004.

Disability is denied at 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 physical impairment for a 90 day 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 reports of record are diagnostic and treatment reports, and do not provide medical assessments of Claimant's physical limitations relative to her functional incapacity to perform basic work activities, as defined above. 20 CFR 416.913(c)(1) and (2). Stated differently, does the combination physical impairment impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical evidence of record established a combination non-severe impairment, as defined above. Therefore, a combination severe physical impairment meeting the 90 Day continuous duration requirement, as defined above, has not been established.

Because the evidence of record does not establish that Claimant is unable to perform basic work activities for a period exceeding 90 days, the Claimant does not meet the disability criteria for SDA benefits.

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 not medically established.

Accordingly, SDA denial is **UPHELD**.

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

Date Signed: June 11, 2012

Date Mailed: June 11, 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:

