

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201242532
Issue No: 2009
Case No: [REDACTED]
Hearing Date: June 13, 2012
Ingham 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, an in-person hearing was held on Wednesday, June 13, 2012. Claimant appeared with her authorized [REDACTED], [REDACTED].

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 MA-P (and 2 months retro) application on April 29, 2011 was denied on September 14, 2011 per BEM 260, with a hearing request on December 15, 2011; [REDACTED] representative never received notice of case action.
2. Claimant was age 43, with a 9th grade education, and history of unskilled/semi-skilled work (Medical Packet, Page 15).
3. Claimant ended her last work in February 2011, and became an [REDACTED] and currently still on [REDACTED].
4. Claimant alleges disability based on a combination mental/physical impairment (Medical Packet, Page 73).

5. Medical reports state that Claimant on:
 - a. January 13, 2012, is alert, oriented, well-nourished, and well-developed; that she is oriented x3; that mood/affect is normal; that speech is normal; that cranial nerves are normal; and that she has no motor and sensory deficits (Medical Packet, Page 64).
 - b. January 21, 2011, has no muscle atrophy or fasciculations; that strength is 5/5 in her extremities; that gait and station are stable with normal stride, length, rate, base and arm swing; that heel, toe and tandem gait were performed without difficulty (Medical Packet, Page 57).
 - c. February 9, 2011, is in no acute distress; that she answers questions appropriately; that she is alert and oriented x3; that she has a clear level of conscientiousness; and that she moves all four extremities, with great strength and no edema (Medical Packet, Page 42).
 - d. July 28, 2011, has a current GAF score of 52 (Medical Packet, Page 7).

CONCLUSIONS OF LAW

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 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 established the Claimant has not been engaged in substantial gainful work since February 2011. She is still a current

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 mental/physical impairment for 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).

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 score of 52 in July 2011. This is considered a non-severe mental impairment with occupational functioning. DSM-IV (4th edition-revised).

The medical evidence of record establish that the Claimant has been an [REDACTED] before and on date of application; and that she is still a current [REDACTED].

In addition, claimant does receive unemployment compensation benefits. In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. They must be totally or partially unemployed. They must have an approvable job separation. Also, they must meet certain legal requirements which include being physically and mentally able to work, being available for and seeking work, and filing a weekly claim for benefits on a timely basis. This Administrative Law Judge finds that claimant has not established that she has a severe impairment or combination of impairments which have lasted or will last the durational requirement of 12 months or more or have kept her from working for a period of 12 months or more. [REDACTED]

Claimant testified and admitted that she has the functional capacity for sedentary type work.

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 medical evidence of record established a combination non-severe impairment, as defined above. Therefore, a combination severe mental/physical impairment meeting the 1 year continuous duration requirement, as defined above, is not established.

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

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

Date Signed: June 15, 2012

Date Mailed: June 18, 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:

