

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201246941
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: July 25, 2012
Sanilac 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 Wednesday, July 25, 2012. Claimant appeared and provided testimony on his behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

The record was extended 90 days for a 2nd SHRT review of medical reports introduced at the hearing (Claimant Exhibit A).

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. On March 7, 2012, Claimant's application for MA-P/SDA, was denied on April 5, 2012 per BEM 260/261, with a hearing request on April 13, 2012.
2. Claimant was age 50, with a GED, and work experience as a unskilled to semi-skilled related manufacturing and inventory assessment type work (DHS Exhibit A, Page 18).
3. Claimant ended his last employment 3½ years ago.
4. Claimant alleges disability due to a diagnosed medical impairment of mental illness, arthritis and back pain (DHS Exhibit A, Page 39).

5. Medical reports state the Claimant on:
 - a. August 24, 2011, has a GAF score of 63 (DHS Exhibit A, Page 38).
 - b. January 23, 2012, has a GAF score of 40 (DHS Exhibit A, Page 25).
 - c. January 23, 2012, is moderately limited in ability to understand and remember 1 or 2-step instructions, carry out simple 1 of 2-step instructions; that he is markedly limited in ability to remember locations and work-procedures, understand and remember detailed instructions, carry out detailed instructions, maintain attention and concentration for extended periods, perform activities within a scheduled, maintain regular attendance, and be punctual within customary tolerances, sustain an ordinary routine without supervision, work in coordination with or proximity to others without be distracted by them, make simple work-related decisions, complete a normal work day and work sheet without interruptions from psychologically based symptoms and perform at a consistent pace without an unreasonable number and lengths of rest periods, interact appropriate with the general public, accept instructions and respond appropriately to criticism from supervisors, get along with co-workers or peers without distracting them or exhibiting behavioral extremes, maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness (DHS Exhibit A, Pages 27 and 28).
6. State Hearing Review Team (SHRT) report dated June 24, 2012 states the Claimant's impairments do not meet/equal a Social Security listing (DHS Exhibit A, Page 39).

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 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).

At Step 1, disability is not denied. The evidence of record established the Claimant has not been engaged in substantial gainful activities for 3½ years ago.

At Step 2, disability is denied. 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 severe mental and physical impairments in combination that had lasted or was expected to last 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 63 in August 2011 and 40 in January 2012. These scores are considered a non-severe and severe mental impairment, respectively; with occupational functioning. DSM-IV (4th edition-revised).

The medical evidence of record does not establish the Claimant's abnormal mental/physical findings have persisted on repeated examinations for a reasonable presumption to be made that a severe impairment has lasted or was expected to last for at least one continuous year.

The reports in Claimant Exhibit A were a person with an MBSW degree. Acceptable sources of mental capacities are by an M.D., D.O., or fully licensed psychologists. BEM 600. Therefore, no evidentiary weight can be given to Claimant Exhibit A reports.

Whether an individual has one or a combination of medical impairments, the non-severe or severe impairment determination is the same. The medical evidence of record must establish, on date of application, a significant functional incapacity to perform basic work activities for the required duration.

The medical reports of record are examination, diagnostic, treatments reports. They do not provide medical assessments of Claimant's mental/physical limitations relative to his functional incapacity to perform basic work activities, as defined above. ...20 CFR 416.913(c)(1) and (2). Stated differently, does the combination mental/physical impairment medically impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical evidence of record does not establish a combination severe mental/physical impairment meeting the one year continuous duration requirement. It established a non-severe impairment.

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

Claimant introduced no medical evidence of record by a treating, examining, or non-examining physician that Claimant's impairments do meet the requirements of any Social Security listing. To the contrary, the SHRT medical consultant addressed the matter and found insufficient medical evidence of a disability under a Social Security listing.

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

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 and also would not be established at Steps 3 and 4 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/SDA denial is **UPHELD**, and SO ORDERED.

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

Date Signed: September 21, 2012

Date Mailed: September 24, 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:

