

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201248539
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: July 18, 2012
County: St. Clair

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 July 18, 2012. Claimant appeared and provided testimony on his behalf. Participants on behalf of the Department of Human Services (Department) included [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/SDA application on February 17, 2012, was denied on April 13, 2012 per BEM 260/261, with a hearing request on April 23, 2012
2. Vocational factors: Age [REDACTED] with a high school education, and history of semi-skilled work.
3. Last employment ended March 2011.
4. Disability is alleged due to a combination severe cardiac and depression impairment. (Medical Packet, Pag3 122).
5. Medical reports of record state the Claimant on:
 - a. July 11, 2011, has a current GAF score of 40 and last year of 55. (Medical Packet, Page 33).

- b. July 15, 2011, has a mental residual functional capacity assessment report of no evidence of limitations in ability to remember locations and work-like procedures, understand and remember 1 or 2-step instructions, understand and remember detailed instructions, carryout simple 1 of 2-step instructions, carryout detailed instructions, maintain attention and concentration for extended periods, perform activities within a schedule, maintain attendance and be punctual within customary tolerances, sustain an ordinary routine without supervision, work in coordination with or proximity to others with being distracted by them, make simple work-related decisions, complete a normal workday and a normal worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and lengths of rest periods, asked suitable questions and or request assistance, accept questions and respond appropriately to criticism from supervisors, get along with coworkers or peers without distracting or exhibiting behavioral extremities, and travel in unfamiliar places or used public transportation. (Medical Packet, Pages 35 and 36).
 - c. July 15, 2011, has a circulatory system with a regular rate and no significant murmurs, rubs or gallops (Medical Packet, Page 23).
 - d. February 14, 2012, was admitted with an acute anterior wall myocardial infarction, that he underwent a stent to the left anterior descending artery and it seems that he had a xience stent placed; that he has been doing fairly well (Medical Packet, Page 111).
 - e. February 14, 2012, has a stable condition (Medical Packet, Page 112).
 - f. July 15, 2012, appears to be in no apparent distress; that he does not appear acutely ill; that he appears alert and oriented to person, place and time; and that he has normal strength, tone and gait (Medical Packet, Page 101).
6. State Hearing Review Team decision dated June 15, 2012 states the Claimant's impairments do not meet/equal a Social Security listing (Medical Packet, Page 122).

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 416.912(a).

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 since March 2011.

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 a severe mental/physical impairment for a one (1) 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 55 in July 2010, and 40 in July 2011. These scores are considered a non-severe/severe respectively mental impairment with occupational-functioning. DSM-IV (4th edition-revised).

The medical evidence of record does not establish the Claimant's abnormal mental findings have persisted on repeated examinations for a reasonable presumption to be made that a severe impairment has lasted for a continuous period for one year, and 90 days for SDA.

Also, the RFC assessment report in July 2011 established that the Claimant had no evidence of limitations in social interaction, and adaption.

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.

In this case, the medical reports of record are mostly examination, diagnostic, and treatment 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 (1) year continuous duration requirement. It established a non-severe impairment.

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he is not considered disabled. ...20 CFR 416.994 (b)(1)(iv).

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.

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.

If disability had not already been denied at Step 2, it would also be denied at Step 5. At this step the burden of proof shifts to the Department of Human Services. The medical evidence of record, on date of application, does establish the Claimant had a residual functional capacity (RFC), despite his impairments, to perform other work in the National Economy for the required 1 year continuous duration.

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very 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 medical evidence of record, on date of application, does establish the Claimant a RFC for less strenuous work than his past work, such as sedentary work, as defined above. Under the Medical-Vocational Guidelines, a younger individual age 43, with high school education, and semi-skilled/skilled work history who is limited to sedentary work is not considered disabled.

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, 4 and 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/SDA denial is **UPHELD**.

/s/

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

Date Signed: January 7, 2013

Date Mailed: January 8, 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:

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

WAS/tb

cc:

