

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

IN THE MATTER OF:



Reg. No.: 2012-49064
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: July 11, 2012
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on July 11, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) and State Disability Assistance (SDA) programs?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material and substantial evidence in the record and on the entire record as a whole, finds as material fact:

1. On March 18, 2012, Claimant filed an application for MA and SDA benefits. The application also requested MA retroactive to December 1, 2012.
2. On April 12, 2012, the Department sent a Notice of Case Action to Claimant, denying the application.
3. On April 17, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age forty-eight [REDACTED] has a high-school diploma and two years of college.
5. Claimant last worked in June 2011 as a salesperson and cashier. Claimant also performed relevant work as a telephone customer service representative and a

telephone collections representative. Claimant's relevant work history consists exclusively of unskilled light-exertional work activities.

6. Claimant has a history of endometriosis, hypertension, fibroids and depression. Her onset dates are [REDACTED] (endometriosis), [REDACTED] (fibroids), and [REDACTED] (hypertension and depression). She also suffers from blurry vision, vertigo, hyperlipidemia, hypothyroidism/goiter, migraines, insomnia, anxiety and uterine fibroids.
7. Claimant was never hospitalized as a result of her impairments.
8. Claimant currently suffers from endometriosis, hypertension, fibroids, depression, blurry vision, vertigo, hyperlipidemia, hypothyroidism/goiter, migraines, insomnia, anxiety and uterine fibroids.
9. Claimant has severe limitations of her ability to walk, stand, and remember things. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

SDA provides financial assistance for disabled persons and was established by 2004 PA 344. The Department administers SDA pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and RFT.

The Administrative Law Judge concludes and determines that Claimant **IS NOT DISABLED** for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.

OR

2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.

OR

3. Claimant is capable of performing previous relevant work.

OR

4. Claimant is capable of performing other work.

The Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's physical and/or mental impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

State the Listing of Impairment(s): _____.

OR

2. Claimant is not capable of performing other work.

The following is an examination of Claimant's eligibility required by the federal Code of Federal Regulations (CFR). 20 CFR Ch. III, Secs. 416.905, 416.920. The State of Michigan is required to use the Social Security Administration's five-step eligibility test in evaluating applicants for the State's Medicaid disability program.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since June 2011. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, and Claimant is not engaged in substantial gainful activity. Department Exhibit 1, p. 9.

Second, in order to be eligible for MA, Claimant's impairment must be sufficiently serious and be at least one year in duration. The CFR gives the following definition of impairment:

If you are not doing substantial gainful activity, we always look first at your physical or mental impairment(s) to determine whether you are disabled or blind. Your impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. **A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only by your statement of symptoms** (see Sec. 416.927). 20 CFR Chap. III, Sec. 416.908. (Boldface added for emphasis).

This description of impairment directs the factfinder to Sec. 416.927, where further information about proof of impairment is presented.

(d)(2)(ii) *Nature and extent of the treatment relationship.* Generally, the more knowledge a treating source has about your impairment(s) the more weight we will give to the source's medical opinion. We will look at the treatment the source has provided and at the kinds and extent of examinations and testing the source has performed or ordered from specialists and independent laboratories.

...

(d)(3) *Supportability*. The more a medical source presents relevant evidence to support an opinion, particularly medical signs and laboratory findings, the more weight we will give that opinion. The better an explanation a source provides for an opinion, the more weight we will give that opinion. 20 CFR Chap. III, Secs. 416.927(d)(2)(ii) and (d)(3).

Applying these regulations in the case under consideration, it is found and determined that Claimant's medical evidence is not sufficient to support a conclusion of a severe impairment. Claimant's medical evidence consists essentially of one document, a Medical Examination Report from [REDACTED]. The Report is dated [REDACTED] Department Exhibit 1, pp. 10-11.

Mr. Gupta signed the Report in the following manner: [REDACTED] There is no indication in the signature block that Sagar Gupta is a medical doctor. There are no medical records from [REDACTED] records presented at the hearing indicate that both are M.D. physicians. *Id.*; Claimant Exhibit 1, pp. 6, 8.

The Report states that Claimant was first seen on [REDACTED] There are no records of treatment from [REDACTED]. There are no records of treatment from [REDACTED] Department Exhibit 1, pp. 10-11.

Continuing on to the substance of the report, the clinical impression is "Under evaluation for cause of dizziness." Apparently, there was a physical examination conducted in order to prepare the Report, and the physical examination revealed abdominal tenderness, "diffuse, bandlike below umbilicus." *Id.*

Also noted about this Report is that the preparer of the Report cites no laboratory tests or results to support any of the findings in the Report. Additional records for [REDACTED] [REDACTED] indicate no severity of symptoms or diagnoses. *Id.*; Claimant Exhibit 1.

It is found and determined that based on this Report, Claimant's impairments are not of sufficient severity to qualify her for MA and SDA benefits. Section 416.908, cited above, requires that there be medical evidence of signs, symptoms and laboratory findings. Second, the only sign, symptom or laboratory finding in the Report is abdominal tenderness. Third, the Impression in the report states that Claimant is "under evaluation for cause of dizziness." This Impression is not sufficient evidence of a severe impairment.

Furthermore, an analysis of Section 416.927 cited above results in the same conclusion. Claimant's providers do not present adequate information to establish the severity of her impairments. They have not provided substantial examination, testing or treatment for Claimant's impairments. Also, they have not given an actual diagnosis and itemized the evidence which supports that diagnosis.

Considering the Report as a whole, and for all of the reasons stated above, it is found and determined that the Report and other medical records are not sufficient medical evidence to establish severity. Claimant has failed to present sufficient medical evidence to prove the severity of her impairments.

Further, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be

NOT DISABLED **DISABLED**

for purposes of the MA program. The Department's denial of MA benefits to Claimant is

AFFIRMED **REVERSED**

Considering next whether Claimant is disabled for purposes of SDA, the individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM Item 261. Inasmuch as Claimant has been found not disabled for purposes of MA, Claimant must also be found not disabled for purposes of SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record finds that Claimant

DOES NOT MEET **MEETS**

the definition of medically disabled under the Medical Assistance and State Disability Assistance programs as of the onset date of 1992.

The Department's decision is

AFFIRMED **REVERSED**



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2012

Date Mailed: August 23, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

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

JL/pf

cc:

