

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

**IN THE MATTER OF:**



Reg. No: 201250837  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Hearing Date: August 8, 2012  
Shiawassee 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 August 8, 2012. Claimant appeared and provided testimony on her behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

The hearing record was extended 90 days for a 2<sup>nd</sup> SHRT review of medical reports submitted 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. Claimant's MA-P/SDA application on January 5, 2012 was denied on April 25, 2012 per BEM 260/261, with a hearing request on April 30, 2012.
2. Claimant was age 52, with a high school education or more, and work experience of skilled of marketing and insurance sales work (Medical Packet, Pg. 27).
3. Claimant's last employment ended October 2010 due to being laid off; therefore, she became an unemployment compensation benefits recipient with an exhaustion date of June 2011.
4. Claimant alleges disability due to medically diagnosed disorders of rheumatoid arthritis, liver inflammation and neuropathy in combination (Medical Packet, Pgs. 22 & 85).

5. Medical reports of record state the Claimant on:
  - a. June 22, 2011: Is limited to lifting/carrying up to 5 pounds from 1 to a 3<sup>rd</sup> of an 8 hour work day; that her pain can be aggravated by lifting/carrying objects; that she can stand/walk in a regular 8 hour day without interruption 30 minutes due to pain in the feet aggravated by prolonged standing/walking; that she does not need a cane in occasional standing/ walking in an assistive device; that she can sit a total of 1 to 2 hours without interruption 30 minutes at a time due to back pain and long periods of sitting; that she needs to take unscheduled rest periods every 15 to 30 minutes for 10 minutes for every 1 to 2 hours; that she has significant limitations with reaching, handling or fingering; that she is likely to produce good days and bad days for more than four days per month; that she can hold her head occasionally in the static position; that she can rarely look down (sustained flexion of neck), turn head, look up; that she can never twist, stoop, crouch/squat, climb ladders, climb stairs; that her pain symptoms are severe enough to frequently interfere with the attention and concentration needed to perform even simple work duties (Claimant Exhibit A, Pgs. 5 – 11).
  - b. September 1, 2011: Is in no acute distress, well-nourished and well-developed; that in the musculoskeletal areas she has no cervical spine tenderness; that she has normal mobility and curvature; that she has no thoracic spine tenderness, normal mobility and curvature; that she has lumbar spine tenderness, normal mobility and curvature; that she has no joint deformity of the left shoulder, and a full range of motion; that right shoulder has no joint deformity with a full range of motion; that right and left elbows have no joint deformity with a full range of motion; that right and left hands have no joint deformity with a full range of motion; that right and left hips have no joint deformity with a full range of motion; that left pelvis is non-tender to palpitation and right pelvis is non-tender to palpitation; that right and left knees have crepitus with mild pain with motion (Medical Packet, Pg. 39).
  - c. February 22, 2012: She has no acute fracture or dislocation seen involving the lumbar spine; that vertebrae body heights are well maintained; that minimally reduced disk space is seen at L5-S1 level; that bone mineralization is normal; that mild lumbar spondylotic changes are seen; and that the conclusion is mild degenerative changes (Medical Packet, Pg. 12).
6. Medical reports of record do not state the Claimant's disorders meet/equal a Social Security listing.

## 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 416.920.

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).

Step 1, disability is not denied. The evidence of record established the Claimant has not been engaged in substantial gainful activities since October, 2010.

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 physical impairment in combination for the required 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 reports of record are mostly examination, diagnostic, treatment and progress reports. They do not provide medical assessments of Claimant's physical work limitations in order to determine whether or not she has a severe or non-severe impairment for the required duration. Differently stated, how do the medically diagnosed disorders significantly functionally incapacitate impair the Claimant's ability to perform basic work activities? Do the medically diagnosed disorders impair the Claimant's basic work ability slightly, mildly, moderately (non-severe impairment, as defined above) or severely as defined above?

The medical evidence of record on June 22, 2011 established the Claimant's severe physical impairment. Findings of fact 5a, and on September 1 2011 and February 22, 2012 a non-severe physical impairment. Findings of facts 5b & c. There was a substantial physical improvement after June, 2011. Even if there had not been

an improvement, the total durational period was less than the 12 month required continuous duration.

The medical evidence of record does not establish claimant's severe Physical impairment for the required duration.

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 her impairments, to perform any of her past work as an insurance planner and sales person for the required one year continuous duration.

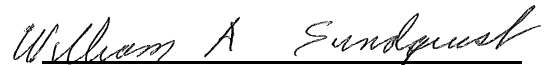
The department's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 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.

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**.



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

Date Signed: April 9, 2013

Date Mailed: April 9, 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

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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/jk

cc:

