

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 2012-57331

Issue No: 2009

[REDACTED] DHS

**ADMINISTRATIVE LAW JUDGE:** Janice G. Spodarek

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, an in person hearing was held. Claimant was represented by [REDACTED] with [REDACTED] of [REDACTED].

**ISSUE**

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) application?

**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 [REDACTED] claimant applied for MA with the Michigan Department of Human Services (DHS).
2. Claimant did not apply for retro MA.
3. On [REDACTED], the MRT denied.
4. On [REDACTED] the DHS issued notice.
5. On [REDACTED], claimant filed a hearing request.
6. On [REDACTED] the State Hearing Review Team (SHRT) denied claimant.
7. Claimant has been denied SSI with the Social Security Administration (SSA). An SOLQ ran on the date of the administrative hearing indicates that claimant had an [REDACTED] application date with a payment status

code of N32. Claimant testified that she was previously denied, but argues worsening conditions. This ALJ takes judicial notice of the fact that claimant's current denial with her application was filed after the application with the Michigan DHS. Claimant's argument of worsening condition is non-sensical.

8. Claimant is a [REDACTED] standing 5'2" tall and weighing 115 pounds.
9. Claimant testified she does not have an alcohol/drug abuse problem or history. Medical evidence indicates that claimant was positive for a marijuana drug screen and Benzodiazepines. Claimant's medical evidence also indicates that claimant states that she "will occasionally smoke marijuana." Claimant smokes approximately one pack of cigarettes per day and has a nicotine addiction.
10. Claimant has a driver's license and can drive an automobile.
11. Claimant has a [REDACTED] [REDACTED] education.
12. Claimant is not currently working. Claimant has no significant work history, indicating that "I was a stay home mom."
13. Claimant alleges disability on the basis of bipolar disorder and attention deficit disorder.
14. Claimant testified that she has issues with taking care of her activities of daily living due to her mental impairment.
15. Claimant's representative stipulated that the colitis is not disabling.
16. The [REDACTED] SHRT findings and conclusions of its decision are adopted and incorporated by reference herein/to the following extent:

**Medical Summary:**

The claimant was hospitalized on [REDACTED] for abdominal pain and diagnosed with acute colitis. She was treated with antibiotics and released in stable condition (Pgs. 110-111).

The mental status on [REDACTED] noted her mood and affect were flat and sad. Thought process was unremarkable. She denied suicidal or homicidal thoughts (DDS medical records.)

**Analysis:**

The abdominal pain subsided once she was treated with antibiotics. The medical evidence shows that the claimant may be depressed at times. She is still able to remember, understand and communicate with others. As a result of the claimant combination of severe physical and mental condition, she is restricted to performing unskilled work.

**Recommended Decision:**

Claimant is not engaging in substantial gainful activity at this time. Claimant's severe impairments do not meet or equal any listing. Despite the impairments, she retains the capacity to perform unskilled work.

Therefore, based on the claimant's profile (advanced age, 12<sup>th</sup> grade education and medium work history); MA-P is denied using Vocational rule 204.00 as a guide. SDA is denied per PEM 261 because the information in the file is inadequate to ascertain whether the claimant is or would be disabled for 90 days. Retroactive MA-P benefits are denied at step 5 of the sequential evaluation; claimant retains the capacity to perform light work.

17. Claimant submitted many medical documents with many office visits containing a number of diagnoses with regards to the resolved colitis. Secondary diagnoses are often hypothyroidism, hypertension, and gastroesophageal reflux disease.
18. Evidence indicates claimant is going through some changes in her life which is affecting situational mental status changes.

**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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition

of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Prior to any substantive review, jurisdiction is paramount. As noted in the findings of facts, claimant appears to have had a prior SSI application denied as well as a current denial. Under 42 CFR 435.541, there is no jurisdiction. However, claimant made a very ambiguous argument with regards to worsening conditions. This argument is not relevant with regards to an application filed with SSA after claimant's current application at issue herein with the DHS. Thus, there is no jurisdiction to proceed when an individual argues that their conditions have worsened where their DHS application was filed before the SSI application. .

In the alternative, the sequential analysis will be applied as follows.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...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 regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. With regards to claimant's alleged physical impairments, none meet severity. The analysis will continue as to claimant's mental impairments.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant has no past relevant work. The analysis continues.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge concurs with the SHRT finding that claimant's medical evidence does not rise to statutory disability on the basis of 204.00(h). In reaching this conclusion, it is noted this ALJ finds that the overall bulk of the medical evidence supports this conclusion.

As already noted, the colitis was resolved. Moreover, claimant's rep stipulated that the colitis is not disabling.

With regards to the mental status, medial evidence reflects that claimant's issues are in large part situational – claimant recently lost her spouse. Claimant has also had a change in our household composition requiring significant situational changes. There is

non indication that claimant's mental status, while daunting obviously, rises to statutory disability as it is defined under federal and state law.

As already noted, the nicotine, marijuana and benzodiazepines are not recognized as disabling.

For these reasons and for the reasons stated above, statutory disability is not shown.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is **UPHELD**.

/s/ \_\_\_\_\_  
Janice G. Spodarek  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

**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 mailing date of the rehearing decision.

JGS/jk

cc:

[REDACTED]

MAHS