

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201258753
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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, a hearing was held on [REDACTED]. The record was held open to allow Claimant an opportunity to submit new medical documentation.

ISSUE

Did the department properly determine that Claimant did not meet the disability standard for Medical Assistance based on disability (MA-P)?

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-P and SDA benefits.
2. On [REDACTED], the Medical Review Team (MRT) denied Claimant's request for MA-P benefits.
3. On [REDACTED], the department notified Claimant that she was denied MA-P benefits.
4. On [REDACTED] the department received Claimant's hearing request, protesting the denial of MA-P benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P benefits.

6. Claimant applied for disability benefits based on having mental problems, and problems with her “hand/wrist.” (Department Exhibit A, p. 3)
7. According to a hospital report: claimant was admitted on [REDACTED] and discharged on [REDACTED]. Claimant was admitted to hospital after developing sudden onset of tongue and throat swelling after taking friend’s [REDACTED]. Claimant was 5’4 at 170 lbs; Claimant reported drinking alcohol more frequently and doing occasional crack cocaine; and her physical and mental examination was essentially normal (Department Exhibit A, pp. 4 - 54)
8. A thyroid ultrasound dated [REDACTED], revealed an enlarged thyroid gland; and a six month follow-up study was recommended to assure stability. (Department Exhibit D)
9. According to a GYN report dated [REDACTED] Claimant had gone to the ER due to heavy bleeding with her cycle; complete physical examination resulted in normal findings; and the doctor noted that Claimant’s vital signs revealed that she was perimenopausal, and she was diagnosed with anemia. (Department Exhibit D)
10. A CT scan of Claimant’s abdomen and pelvis revealed an enlarged uterus and enlarged right ovary. (Department Exhibit D)
11. According to a GYN report dated [REDACTED] Claimant had 3 months of severe anemia; and it was noted that she needs a hysterectomy to remove fibroids. (Department Exhibit D)
12. Claimant is a 46 year old female with a high school education and unskilled work experience.
13. Claimant submitted an application for disability benefits with the Social Security Administration (SSA).
14. Claimant was denied disability benefits by SSA and reported she has an appeal pending to protest the denial.
15. Claimant was not engaged in substantial gainful activity at any time to this matter.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

"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.

When determining disability, the federal regulations 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).

Since Claimant was not engaged in substantial gainful activity at any time relevant to this matter, the analysis continues.

...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).

...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).

...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 blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...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).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

In determining how a severe mental impairment affects the client's ability to work, four areas considered to be essential to work are looked at:

...Activities of daily living including adaptive activities such as cleaning, shopping, cooking, taking public transportation, paying bills, maintaining a residence, caring appropriately for

one's grooming and hygiene, using telephones and directories, using a post office, etc. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(1).

...Social functioning refers to an individual's capacity to interact independently, appropriately, effectively, and on a sustained basis with other individuals. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(2).

Social functioning includes the ability to get along with others, such as family members, friends, neighbors, grocery clerks, landlords, or bus drivers. You may demonstrate impaired social functioning by, for example, a history of altercations, evictions, firings, fear of strangers, avoidance of interpersonal relationships, or social isolation. You may exhibit strength in social functioning by such things as your ability to initiate social contacts with others, communicate clearly with others, or interact and actively participate in group activities. We also need to consider cooperative behaviors, consideration for others, awareness of others' feelings, and social maturity. Social functioning in work situations may involve interactions with the public, responding appropriately to persons in authority (e.g., supervisors), or cooperative behaviors involving coworkers. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(2).

We do not define "marked" by a specific number of different behaviors in which social functioning is impaired, but by the nature and overall degree of interference with function. For example, if you are highly antagonistic, uncooperative or hostile but are tolerated by local storekeepers, we may nevertheless find that you have a marked limitation in social functioning because that behavior is not acceptable in other social contexts. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(2).

...Concentration, persistence or pace refers to the ability to sustain focused attention and concentration sufficiently long to permit the timely and appropriate completion of tasks commonly found in work settings. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(3).

Limitations in concentration, persistence, or pace are best observed in work settings, but may also be reflected by limitations in other settings. In addition, major limitations in this area can often be assessed through clinical examination

or psychological testing. Whenever possible, however, a mental status examination or psychological test data should be supplemented by other available evidence. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(3).

Episodes of decompensation are exacerbations or temporary increases in symptoms or signs accompanied by a loss of adaptive functioning, as manifested by difficulties in performing activities of daily living, maintaining social relationships, or maintaining concentration, persistence, or pace. 20 CFR 404, Subpart P, App. 1, 12.00(C)(4).

Episodes of decompensation may be demonstrated by an exacerbation in symptoms or signs that would ordinarily require increased treatment or a less stressful situation (or a combination of the two). Episodes of decompensation may be inferred from medical records showing significant alteration in medication; or documentation of the need for a more structured psychological support system (e.g., hospitalizations, placement in a halfway house, or a highly structured and directing household); or other relevant information in the record about the existence, severity, and duration of the episode. 20 CFR 404, Subpart P, App. 1, 12.00(C)(4).

The evaluation of disability on the basis of a mental disorder requires sufficient evidence to: (1) establish the presence of a medically determinable mental impairment(s); (2) assess the degree of functional limitation the impairment(s) imposes; and (3) project the probable duration of the impairment(s). Medical evidence must be sufficiently complete and detailed as to symptoms, signs, and laboratory findings to permit an independent determination. In addition, we will consider information from other sources when we determine how the established impairment(s) affects your ability to function. We will consider all relevant evidence in your case record. 20 CFR 404, Subpart P, App. 1, 12.00(D).

When we rate the degree of limitation in the first three functional areas (activities of daily living; social functioning; and concentration, persistence, or pace), we will use the following five-point scale: none, slight, moderate, marked, and extreme. When we rate the degree of limitation in the fourth functional area (episodes of decompensation), we will use the following four-point scale: none, one or two, three,

four or more. The last is incompatible with the ability to do any gainful activity. 20 CFR 416.920a(c).

After we rate the degree of functional limitation resulting from the impairment(s), we will determine the severity of your mental impairment(s). 20 CFR 416.920a(d).

If we rate the degree of your limitation in the first three functional areas as “none” or “mild” and “none” in the fourth area, we will generally conclude that your impairment(s) is not severe, unless the evidence otherwise indicates that there is more than a minimal limitation in your ability to do any basic work activities. 20 CFR 416.920a(d)(1).

If your mental impairment(s) is severe, we will then determine if it meets or is equivalent in severity to a listed mental disorder. We do this by comparing the diagnostic medical findings about your impairment(s) and the rating of the degree of functional limitation to the criteria of the appropriate listed mental disorder. 20 CFR 416.920a(d)(2).

If we find that you have a severe mental impairment(s) that neither meets nor is equivalent in severity to any listing, we will then assess your residual functional capacity. 20 CFR 416.920a(d)(3).

Claimant testified that she is unable to work due to ruptured cysts, fibroids on her uterus, anemia, daily pain, respiratory problems, and thyroid problems. Claimant testified that she is exhausted all of the time. The finding of a severe impairment at Step 2 is a *de minimus* standard. Since Claimant does have a combination of physical problems that might compromise the physical ability to do all basic work activities, the analysis will continue to Step 3. Claimant testified that she also suffers from depression. However, there is no objective medical evidence on the record to establish that she has a severe mental impairment or that she is markedly limited in any of the 4 areas essential to work. Additionally, Claimant's ability to understand and communicate did not appear to be severely affected.

Claimant failed to establish that she has a severe impairment that meets or equals a severe impairment listed at 20 CFR, Part 404, Subpart P, Appendix 1. Therefore, the analysis continues.

Claimant has at least an unskilled work history. There is no objective medical evidence to establish that Claimant is unable to do any of her past relevant work. According to a hospital report: Claimant was admitted on [REDACTED] and discharged on [REDACTED]; Claimant was admitted to hospital after developing sudden onset of tongue and throat swelling after taking friend's [REDACTED]. Claimant was 5'4" at 170 lbs; and her

physical and mental examination was essentially normal. Claimant submitted laboratory data which revealed thyroid masses, and she has an enlarged uterus and ovary. It appears that a hysterectomy has been recommended. Other than a follow-up study, no treatment for Claimant's thyroid has been recommended. A client's statements about the intensity, persistence, or limiting effects of symptoms, such as pain, must be consistent with the objective medical evidence and other evidence. The medical signs or laboratory findings must show that the client has a medically determinable impairment that could reasonably be expected to produce symptoms, such as pain. 20 CFR 416.929. The frequency, degree, and level of pain described by Claimant is inconsistent with the objective medical evidence on the record.

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

Even if the analysis continued to the last step of the sequential evaluation, Claimant should be able to do at least light work. Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969.

Claimant is considered a younger individual with a high school education and unskilled work experience. 20 CFR 416.963, 20 CFR 416.964, and 20 CFR 416.968. Using Medical Vocational Rule 202.20 as a guideline, Claimant would be considered not disabled. According to this Medical Vocational Rule, a younger individual with a high school education and at least unskilled work experience, limited to light work, is not disabled.

In conclusion, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the department's MA-P decision is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department properly determined that Claimant did not meet the MA-P disability standard.

Accordingly, the Department's MA-P decision is **AFFIRMED**.

/s/

Marya A. Nelson-Davis
Administrative Law Judge Manager
Michigan Administrative Hearing System
for Maura Corrigan, Director
Department of Human Services

Date Signed: 04/23/2013

Date Mailed: 04/24/2013

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 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.

MAND/kl

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