

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201263752
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: October 17, 2012
County DHS: Lapeer

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 October 17, 2012. Claimant appeared and provided testimony. 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 April 19, 2012, was denied on June 27, 2012, per BEM 260/261, with a hearing request on July 6, 2012.
2. Claimant was age 51, with a 12th grade education, and unskilled work experience as a [REDACTED] cook, work in manufacture machining and assembly of car parts weighing over 5 lbs. (DHS Exhibit A, Page 7)
3. Claimant's last employment ended in 2005 due to plant shut down.
4. Claimant alleges disability due to medically diagnosed disorders of back pain, organic brain disorder, psychotic disorder, depression and bipolar. (DHS Exhibit A, Page 93).
5. Medical reports of record state the Claimant on:

- a. January 27, 2011, Claimant's speech is coherent; that her gait is stable; and that she has no impairment of the sensory or motor functions; that cranial nerves from II through XII are grossly intact; and that she has a GAF score of 30. (DHS Exhibit A, Pages 84 & 90).
 - b. February 1, 2011, has a GAF score of 30. (DHS Exhibit A, Page 88).
 - c. April 26, 2011, states a GAF score of 20; her physical assessment reveals chronic back pain and hypertension; and that upon discharge, she was advised physical activity as tolerated; that musculoskeletal, Claimant denies any significant problems; that she denies any significant problems of a central nervous system; that muscularly, she is within normal limits; that her central nervous system is within normal limits; that Claimant is alert, oriented, and responded to questions relevantly; and that her mood is depressed. (DHS Exhibit A, Pages 79 & 80).
 - d. May 3, 2011, has a GAF score of 20. (DHS Exhibit A, Page 81).
 - e. May 20, 2011, has a GAF score of 70. (DHS Exhibit 1, page 66).
 - f. January 26, 2012, has a GAF score of 55 and LMSW. (DHS Exhibit A, Page 29).
 - g. February 22, 2012, has a GAF score of 55 and LMSW. (DHS Exhibit A, Page 45).
 - h. March 23, 2012, has a GAF score of 50. (DHS Exhibit A, page 39).
 - i. March 30, 2012, has a GAF score of 50. (DHS Exhibit A, Page 47).
 - j. April 23, 2012, has a GAF score of 50 by an LMSW. (DHS Exhibit A, Page 72).
 - k. May 17, 2012, has a GAF score of 50. (DHS Exhibit A, Page 40).
6. State Hearing Review Team decision dated August 24, 2012, states the Claimant's disorders don't meet/equal a Social Security listing. (DHS Exhibit A, Page 93).

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.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. BEM, Item 261, p. 1.

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).

Step 1 disability is not denied. The evidence of record established the Claimant has not been engaged in substantial gainful activities since 2005.

Step 2 disability is not denied. The medical evidence of record, on date of application, establishes the Claimant's significant functional incapacity based on the de minimus standard to do basic mental/physical work activities for a 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 burden of proof is on the claimant to establish disability in accordance with the 5 step process below. ...20 CFR 416.912(a).

...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).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

Acceptable medical sources about your impairments are by an M.D. or D.O. or fully licensed psychologist. Medical reports should include assessment of your ability to do work related activities such as sitting, standing, moving about, carrying, handling objects, hearing, speaking, and traveling; and in cases of mental impairments, your ability to reason or make occupational, personal, or social adjustments. ...20 CFR 416.913(a)(c)(1) and (2).

Claimant testified that she cannot do any work due to her memory impairment, that she cannot remember dates; and that she cannot lift/carry more than 5 lbs.

The medical evidence of record established the Claimant's GAF scores of 30 in February 2011, 50 in April 2011, 70 in May 2011, 50 in January and February 2012, 50 in March, 2012, 50 in April 2012 by an LMSW; 50 in May, 2012.

Scores under 51 are considered a severe mental impairment with occupational-functioning. And 70 is considered a mild impairment with occupational-functioning DSM-IV (4th edition-revised).

Evidentiary weight was given to the unacceptable GAF scores by the LMSW's because those scores were supported by the acceptable medical sources.

Scores under 40 are considered a person with a severe mental impairment and unable to work. 41-50 is considered a person of a severe mental impairment and unable to keep a job. DSM-IV (4th edition-revised).

The Claimant has sustained her burden of proof to establish an inability to work on a regular and continuous basis.

Therefore, Claimant has sustained her burden of proof to establish a severe mental/physical impairment, instead of a non-severe impairment, for the required duration and the sequential evaluation is required to continue.

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 meet the definition of disabled under the MA-P program and because the evidence of record does establish that Claimant is unable to work for a period exceeding 90 days, the Claimant does meet the disability criteria for State Disability Assistance benefits.

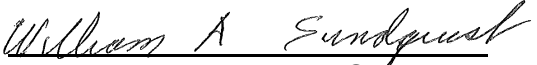
Therefore, medical disability has been established at Step 2 by the competent, material and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides disability was medically established.

Accordingly, MA-P/SDA denial is **REVERSED** and retroactive approval within 10 work days is so ORDERED.

Medical review suggested in February, 2014.


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

Date Signed: February 12, 2013

Date Mailed: February 12, 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/kl

cc:

