

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-64114  
Issue No.: 2009; 4031  
Case No.: [REDACTED]  
Hearing Date: October 2, 2012  
County: Newaygo

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, an in-person hearing was commenced on October 2, 2012, at DHS in Newaygo County. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Lead Eligibility Specialist [REDACTED] and Eligibility Specialist [REDACTED].

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team (SHRT) for consideration. On December 13, 2012, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

**ISSUE**

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P), Retro-MA and State Disability Assistance (SDA)?

**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 May 14, 2012, Claimant filed an application for MA-P, Retro-MA and SDA benefits alleging disability.
- (2) On June 29, 2012, the Medical Review Team (MRT) denied Claimant's application for MA-P and Retro-MA indicating she was capable of past

relevant work. SDA was denied due to lack of duration. (Department Exhibit A, pp 8-9).

- (3) On July 5, 2012, the department caseworker sent Claimant notice that her application was denied.
- (4) On July 13, 2012, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On August 17, 2012, the State Hearing Review Team (SHRT) found Claimant was not disabled and retained the capacity to perform past relevant work. SDA was denied because the information in the file was inadequate to ascertain whether she was or would be disabled for 90 days. (Department Exhibit B, pp 1-2).
- (6) Claimant has a history of Addison's disease, hypothyroidism, ocular scleritis, granuloma in right lung, asthma, anxiety, obsessive compulsive behavior, migraines, depression and attention deficit hyperactivity disorder.
- (7) Claimant is a 37 year old woman whose birthday is [REDACTED]. Claimant is 5'4" tall and weighs 220 lbs. Claimant completed high school and three years of college.
- (8) Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), 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 Reference Tables Manual (RFT).

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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

Disability is defined as 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(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed

impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant is not involved in substantial gainful activity and testified that she has not worked since December, 2011. Therefore, she is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges Addison's disease, hypothyroidism, ocular scleritis, granuloma in right lung, asthma, anxiety, obsessive compulsive behavior, migraines, depression and attention deficit hyperactivity disorder.

On April 2, 2012, Claimant went to the emergency room complaining of chest pain. She was diagnosed with chest pain, pleurisy and acute bronchitis.

On April 30, 2012, Claimant followed up with her primary care physician after being diagnosed with pleurisy and bronchitis a month ago. She had headaches, lightheadedness, dizziness and a high temperature of a 100 with night sweats.

On May 7, 2012, Claimant saw her physician to follow-up on results from her emergency room visit. Her CT angiogram revealed a 1.5 by 1 cm granuloma with calcified mediastinal lymph nodes in the right upper lobe. Her blood work revealed hypothyroidism, mild anemia and an elevated ACTH. She is not feeling any better and has increased her thyroid medication to 300 mcg daily. She is still experiencing heat intolerance and hot flashes, along with palpitations. She also has shortness of breath, even when lying down. Her albuterol inhaler only provides temporary improvement.

On June 26, 2012, Claimant went through intake with [REDACTED] [REDACTED] [REDACTED]. Claimant had intrusive, recurrent upsetting thoughts and images on how things would go wrong in addition to daily flashbacks of sexual abuse. She reported having suicidal ideation all the time and saw no reason not to act on her thoughts. She initially minimized the intensity of her suicidal ideation, but at the end of the referral screening, she admitted that her thoughts had become worse and she was thinking she may need hospitalization to be safe. Her plan would be to drive a car into a tree or off the road. She stated she had no future and it might be better. She had a previous suicide attempt

ten years ago by slitting her wrists and was hospitalized at [REDACTED] [REDACTED] and through [REDACTED] [REDACTED] partial hospitalization program. She had a history of cutting but had managed not to cut for the past two years and did not want to start again. She also cut her wrist in a suicide attempt 8 years ago, resulting in stitches. Diagnosis: Axis I: Major depressive disorder, recurrent, severe; Posttraumatic stress disorder; Axis II: Borderline Personality Disorder; Axis V: GAF=47.

On August 2, 2012, Claimant met with her therapist at [REDACTED] [REDACTED] [REDACTED]. She was alert and oriented and rated her depression at 10 out of 10. She reported increasing depression and scratching her arms to relieve the stress. She showed her therapist her arms which had numerous superficial scratches on them. She reported suicidal ideation and was thinking of using a knife to cut her wrist or falling asleep while driving and said she did not know if she would act on those thoughts. She denied the intent to commit suicide that day, but indicated she may go home and cut. She reported that she had stopped taking Zoloft two weeks ago and had noticed increased depression since discontinuing the medication. She called the pharmacy while with her therapist and was going to pick up the medication upon leaving. She presented less distressed at the end of the session.

On August 23, 2012, Claimant saw her therapist and rated her depression at 9 out of 10. She was tearful during the session and talked about feeling like she was going to die due to her recent anxiety/panic attacks. She engaged in elaborate negative self talk about her mother, family and what her future will be. She is worried about a granuloma in her lung and that she may be sick and dying.

On August 27, 2012, Claimant presented to the emergency department with dizziness, stating that her symptoms were similar to when she had an Addisonian crisis last year resulting in her hospitalization for four days. She stated that she had been unable to afford her Cortef medication, but was taking her levothyroxine tablets. The cardiopulmonary examination revealed a regular rate and rhythm with no murmurs, rubs or gallops appreciated. Lungs were clear to auscultation bilaterally. Neurologic examination was nonfocal with a normal cerebellar exam. She did have an appreciable, symmetric enlarged thyroid gland, with no palpable nodules appreciated. She was neurovascularly intact distally. Diagnostics of her sodium, potassium, chloride, bicarb, anion gap, BUN, creatinine, GFR, magnesium and LFT were all within normal limits. The x-ray of her chest was negative for any acute cardiopulmonary process but did show a cavitary nodule in the right upper lobe. The EKG demonstrated a normal sinus rhythm. Her symptoms were suspected to be secondary to untreated hypothyroidism and Addison disease. While in the emergency department, she had no evidence of an Addisonian crisis and no evidence of any infectious etiology that may predispose her to an Addisonian crisis and no current indication for steroid administration. She was released in stable condition.

On August 30, 2012, Claimant met with her therapist. She was alert and oriented and rated her depression as high. She reported being off her medications for Addison's for the past week and went to the emergency room earlier this week for symptoms. She

was told at the ER that her potassium and sodium were low and she fears that without her medication she will “die quickly.” She was anxious and despondent.

On August 31, 2012, Claimant went to the emergency department with weakness, malaise and palpitations. She was in the emergency department 4 days prior with the same symptoms and diagnosed with mild hypokalemia with some potassium replacement and hypothyroidism. She thought her potassium was low and has Addison disease but is not compliant with taking any glucocorticoid or mineralocorticoid replacement. She stated she is unable to afford the medications. Claimant was pale looking and mildly depressed but in no distress. Blood was obtained. CMP was unremarkable. The electrolytes were normal. Glucose was 116. Liver function tests were normal. White count 6,700, hemoglobin 12. TSH was 3.9 which was within the normal range, and urinalysis was normal. EKG was done and showed no acute changes. She was given a hydrocortisone 100 mg IV push and told that it was merely temporary as she would need to get back on hormone replacement. There was no evidence of an Addisonian-type crisis.

On September 4, 2012, Claimant presented to her primary care physician with an acute upper respiratory infection. Her Addison's disease was worse. She was told she needs to take medications regularly, apply for assistance for all her medications and get blood testing after being on medications regularly. She was prescribed Cortef, hydrocortisone, levothyroxine, loratadine and a ventolin aerosol inhaler.

On September 13, 2012, Claimant saw her therapist and rated her depression at 4 out of 10. She was alert and oriented and reported seeing a new doctor who would be addressing her Addison's and prescribing medications. She was relieved that she now had medical care and was going to apply for disability. Her father had a kidney transplant last weekend and she spent the weekend attending to him. She talked about her feeling of dependency and her desire to remain dependent. She had good insight into parenting issues that caused her to crave dependency and she did not have any motivation to change. She reported not liking commitment like having a job or setting a date with a friend, as it felt like a “responsibility” and caused her anxiety.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Claimant has presented some limited medical evidence establishing that she does have some physical limitations on her ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Claimant has alleged physical and mental disabling impairments due to Addison's disease, hypothyroidism, ocular scleritis,

granuloma in right lung, asthma, anxiety, obsessive compulsive behavior, migraines, depression and attention deficit hyperactivity disorder.

Listing 3.00 (respiratory system), Listing 9.00 (endocrine disorders), Listing 12.00 (mental disorders) and Listing 14.00 (immune system disorders), were considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) does not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled at Step 3. Accordingly, Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the individual's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s) and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though 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. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or

more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (e.g., can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi). If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2). The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

Claimant's prior work history consists of work as a tutor, cashier and nanny. In light of Claimant's testimony, and in consideration of the Occupational Code, Claimant's prior work is classified as unskilled, light work.

Claimant testified that she is able to walk short distances and can lift/carry approximately 20 pounds. The objective medical evidence notes no limitations. If the impairment or combination of impairments does not limit an individual's physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In consideration of Claimant's testimony, medical records, and current limitations, Claimant is able to return to past relevant work. However, Step 5 of the sequential analysis will also be considered.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Claimant was 37 years old and was, thus, considered to be approaching advanced age for MA-P purposes. Claimant has a high school education and three years of college. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from Claimant to the Department to present proof that Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6,

1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

In this case, the evidence reveals that Claimant suffers from Addison's disease, hypothyroidism, ocular scleritis, granuloma in right lung, asthma, anxiety, obsessive compulsive behavior, migraines, depression and attention deficit hyperactivity disorder. The objective medical evidence notes no limitations. In light of the foregoing, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis which includes the ability to meet the physical and mental demands required to perform at least light work as defined in 20 CFR 416.967(b). After review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 202.20, it is found that Claimant is not disabled for purposes of the MA-P program at Step 5.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant not disabled for purposes of the MA-P and SDA benefit programs.

Accordingly, it is ORDERED:

The Department's determination is **AFFIRMED**.

/s/

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Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: January 2, 2013

Date Mailed: January 2, 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.

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