

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012712
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: January 18, 2012
Genesee 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, an in-person hearing was held on Wednesday, January 18, 2012. Claimant appeared with her authorized representative, [REDACTED].

Medical reports (Claimant Exhibit A) submitted at the hearing for a second SHRT review that delayed the decision and order below.

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 applied for MA-P/SDA on January 19, 2011, was denied on June 23, 2011 per BEM 260/261, and requested a hearing on September 20, 2011.
2. Claimant was age 48, with a 11th grade education, and history of unskilled work,
3. Claimant alleges disability due to multiple medically diagnosed mental/physical disorders in combination.
4. Claimant quit her last job and whether or not she became an [REDACTED] within one year after application is unknown due to claimant's absence from the hearing.

5. Medical exam on March 13, 2010, states the claimant is oriented x3; that she is in no acute distress; that there is no visible respiratory distress; that neurologically she is conscious, oriented 3x and moving all four limbs; and that her cranial nerves II-XII are grossly normal (Claimant Exhibit A, Page 228).
6. Medical exam on March 13, 2010, states the claimant is alert and appears to be comfortable; that neurologically she was alert, oriented to person, place and time; that cranial nerves II-XII are intact; that she has no motor and sensory deficits; that musculoskeletally she has no extremity tenderness; that she has a full range of motion in all extremities; and that psychiatrically her mood and affect are normal (Claimant Exhibit A, Pages 219-220).
7. Medical exam on April 26, 2010, states the claimant's mood and affect are normal; that musculoskeletally she is normal; and that medically she is not disabled (Medical Packet, Page 12).
8. Medical exam on May 18, 2010, states the claimant's GAF score of 48 (Medical Packet, Page 10).
9. Medical exam on September 7, 2010, states the claimant has no motor or sensory deficit; that she has normal reflexes and coordination; that the Romberg sign is negative; that both cervical and thoracolumbosacral spine are normal with no limitations of movements; that all the joints in both upper and lower extremities normal with full range of movement; that dexterity is fine and gross dexterity in both upper extremities and the grip in both hands are normal; that she can stand, posture and ambulation was normal; that she was not using any ambulatory aide; that claimant was able to walk on heels and toes, squat and recover, and get on and off the table without any difficulty; that she has a normal range of motion of the cervical spine, lumbar spine, shoulders, elbows, hips, knees, ankles, wrist, hands-fingers; that she is able to sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pickup coin, pickup pencil, write, squat and arise from squatting, get on and off examination table, climb stairs; that she can walk on heels and toes in tandem; that gait is stable within normal limits; that she requires no assistive device for walking; and that her grip strength 5/5 (Medical Packet, Pages 282-287).
10. Medical exam on October 14, 2010, states the claimant is alert and responsive (Claimant Exhibit A, Page 199).

11. Medical exam on January 2, 2011, states the claimant is not in acute distress; that she is oriented x3; that neurologically her examination was within normal limits (Medical Packet, Page 74).
12. Medical exam on January 2, 2011, states the claimant was in mild distress; and that physical examination was insignificant (Medical Packet, Page 72).
13. Medical exam on June 3, 2011, states the claimant's GAF score of 47 (Medical Packet, Page 5).
14. SHRT report dated November 30, 2011, states the claimant's impairments do not meet/equal a social security listing (Medical Packet, Page 290).
15. SHRT report dated March 1, 2012, states the newly submitted evidence (Claimant's Exhibit A) does not significantly or materially alter the previous recommended decision.

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 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).

At Step 1, disability is denied. The evidence of record does not establish that the claimant has not been engaged in substantial gainful work activities within one year after application. There was no confident documentary evidence addressing the matter in the claimant's absence from the hearing.

If disability had not been denied at Step 1, it would be denied at Step 2. The medical evidence of record does not establish the claimant's significant inability to perform basic work activities due to a severe mental/physical impairment in combination for a one year continuous duration, as defined above.

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).

The question is whether the claimant's medically diagnosed mental/physical disorders are non-severe or severe in combination based on the definition above. Said in another way, do the claimant's medically diagnosed mental/physical disorders in combination impair the claimant slightly, mildly, moderately (non-severe, as defined above) or severely, as defined above?

Most of reports of record are diagnostic and treatment reports, and do not provide medical assessments of claimant's mental/physical limitations/restrictions relative to ability to perform basic work activities, as defined above. 20 CFR 416.913(c)(1)(2).

In May 2010 and June 2011, claimant had GAF scores of 48 and 47, respectively. These scores are considered a severe mental impairment and difficulty with job-functioning. The rest of the GAF scores in the Medical Packet and Claimant Exhibit A are by RNs, persons with a MS degree, and a limited license psychologist. Acceptable medical sources are by MD, DO and fully licensed psychologist.

The scores in May 2010 and June 2011 do not establish a severe mental impairment on a regular and continuing basis for the required one year duration.

If disability had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of record does not establish a severe impairment meeting/equaling a social security listed impairment and the duration requirement.

If disability had not already been denied at Step 2, it would be denied at Step 4 where the medical evidence of record, on date of application, does not establish the claimant inability, despite her impairments, to perform any of her past work for the required one year **continuous** duration.

If disability had not already been denied at Step 2, it would be denied at Step 5 where the medical evidence of record, on date of application, does not establish the claimant's was without a residual functional capacity (RFC), despite her impairments, to perform any other work in the national economy for the required one year **continuous** duration.

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor.... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying

articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

The medical evidence of record, on date of application, does not establish that the claimant was without a RFC for less strenuous work than her past work, such as sedentary work, as defined above. Under the medical-vocational guidelines, a younger individual age 48, with 11th grade education, and unskilled work history who is limited to sedentary work is not considered disabled.

The department's Program 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 either.

Therefore, disability has not been established at Step 1 and also at Steps 2, 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 that disability was not medically established.

Accordingly, Medicaid/SDA denial is **UPHELD**.

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

Date Signed: April 6, 2012

Date Mailed: April 6, 2012

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.

WAS/tb

cc:

