

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012713
Issue No: 2009
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 personally appeared, with authorized representative from [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. On May 27, 2011, claimant applied for MA-P, was denied on July 12, 2011 per BEM 260, and requested a hearing on September 27, 2011.
2. On date of application, claimant was age 49, had a high school plus education, and past work experience as a skilled receptionist for 15 years.
3. On August 12, 2007, claimant was fired from her last job and became an unemployment compensation recipient with exhaustion in June 2009.
4. On August 12, 2007, claimant allege disability due to the following medical diagnoses and disabling complaints: 6 bulging disc in neck, fibromyalgia, high blood pressure, esophageal stricture, asthma, back pain, arthritis, muscles problems, stomach problems, hand problems and heart condition (Medical Packet, Pages 14 and 41).

5. Medical exam on December 7, 2010, states the claimant condition is deteriorating (Medical Packet, Page 22).
6. Medical exam on June 16, 2011, states the claimant can sit, stand, bend, stoop, carry, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pick up coin, pick-up pencil, write, squat and arise from squatting, get on and off examining table, climb stairs; that she is able to walk on heels and toes in tandem; that gait is stable within normal limits; that she does not need an assistive device for walking; that her grip strength is 5/5 (Medical Packet, Page 32-33).
7. Medical exam on June 16, 2011, states that the claimant appears to be in mild discomfort; that there is no evidence of joint laxity, crepitation, or effusion; that there is cervical spine straightening; that grip strength remains intact; that dexterity is unimpaired; that claimant could pick up a coin and open a door; that claimant had no difficulty getting on and off the examination table, no difficulty walking heel and toe walking, mild squatting, and mild difficulty hopping; that straight leg raising is negative; that there is paravertebral muscle spasms noted; that range of motion is normal cervical spine, dorsi lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, hands-fingers; that cranial nerves are intact; that motor strength and tone are normal; that sensory is intact to light touch and pinprick; that Romberg testing is normal; that claimant walks with a normal gait without an assist device; that overall her degree of impairment is mild to moderate; that her prognosis is fair; the she does not appear to be actively deteriorating (Medical Packet, Pages 35-38).
8. SHRT report dated November 21, 2011, states the claimant's impairments do no meet/equal a social security listing (Medical Packet, Page 41).

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 (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 460.912(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 not denied. Claimant has not been engaged in substantial gainful work since August 12, 2007.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the claimant's significant inability to perform basic physical work activities for the 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).

The question in this case is whether claimant's medically diagnosed disorders and disabling complaints, on date of application, significantly limit her ability to perform basic work activities, as defined above.

Said another way, do the diagnosed disorders impair the claimant slightly, mildly, moderately (non-severe) or severely?

Most of the medical reports of record are examinations, diagnostic or treatments reports, and do not not provide medical assessments of claimants basic work limitations/restrictions.

Duration of Impairment

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

The medical evidence of record, on date of application, does not establish a severe impairment that has lasted or was expected to last for a one year **continuous** duration, as required above.

Therefore, disability is denied at Step 2.

If disability had not been denied at Step 2, the analysis would proceed to Step 3, where the medical evidence of record does establish a severe physical impairment meaning/equaling a social security listing for the required duration.

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 claimant's 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 of the 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 an RFC for sedentary work, as defined above. **Under the medical-vocational guidelines, a younger individual, age 49, with a high school plus education and skilled work history who is limited to sedentary work is not considered disabled.**

Therefore, disability has not been established at Step 2 and also at Steps 4 and 5 as defined above by the competent, material and substantial material 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 denial is **UPHELD**.

/s/

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

Date Signed: March 6, 2012

Date Mailed: March 7, 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 reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

2012713/WAS

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:

