

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201273359
Issue No: 4031
Case No: [REDACTED]
Hearing Date: December 11, 2012
County DHS: Genesee (06)

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 Tuesday, December 11, 2012. Claimant appeared and provided testimony on her behalf. 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 SDA application on February 1, 2012, was denied on July 23, 2012, per BEM 261, with a hearing request on August 9, 2012.
2. Claimant was age 53, with a GED, and work experience as a skilled electrician for over 30 years.
3. Claimant's last employment ended October 21, 2011, due to an injury from a physical assault.
4. Claimant alleges disability due to medically diagnosed disorder of right arm fracture.

5. Medical reports of exams state the Claimant on:
 - a. January 27, 2012, Claimant has a musculoskeletally positive range of motion of joints/extremities with normal gait and in a stable condition. (DHS Exhibit 2, Page 20).
 - b. February 2, 2012, his range of motion is limited for flexion and extension of the wrist; that he is unable to lift anything heavy without lots of pain; and that his condition is deteriorating. (DHS Exhibit 2, Page 30).

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).

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.

When determining disability, the federal regulations are used as a guideline and 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 establishes the Claimant has not engaged in substantial gainful activities since October 21, 2011.

Step 2, disability is not denied. The objective medical evidence of record, on date of application, establishes, based on the de minimus standard, the Claimant's significant functional physical incapacity to do basic work activities further required 90 day continuous duration, as defined below. Therefore, the analysis continues.

Step 3 disability is denied. The objective medical evidence of record, for the required duration, does not establish Claimant's impairments, meet/equal a Social Security listed impairment. Therefore, the analysis continues.

Step 4 disability is denied. The medical evidence of record, on date of application, does not establish the Claimant's functional physical incapacity, despite his impairments, to perform any of his past work for the required 90 day continuous duration.

Claimant testified that he was physically assaulted and injured on October 21, 2011, resulting in a fracture of the right arm; that he was off work for 6 months and able to return to his past work without restrictions on March 15, 2012; that during the 6 month recovery period, he was physically disabled and not mentally disabled; and that he has the capacity to lift/carry 10 gallons of milk.

Evidence of record shows that the Claimant was off his past work from October 1, 2011 until his medical release to return to work without restrictions on March 15, 2012. (6 month period). This implies a medical opinion that the Claimant did not have the residual functional capacity to do his past work for that period of time.

...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).

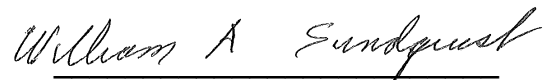
The medical reports of record are examinations, diagnostic, treatment and progress reports and do not provide medical assessments of Claimant's past work limitations for the required duration.

Therefore, medical disability has not been established at steps 3 & 4 by the competent, material and substantial evidence of 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, SDA denial is **UPHELD**.



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

Date Signed: February 6, 2013

Date Mailed: February 6, 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:

