

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201273712
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: December 13, 2012
Barry 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, a telephone hearing was held on December 13, 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 MA-P/SDA application on February 16, 2012 was denied on July 16, 2012 per BEM 260/261, with a hearing request on August 26, 2012.
2. Claimant was age 46, with a GED, and work experience as an unskilled cashier, short order cook, and sells person in a country food store.
3. Claimant's last full-time employment ended in March 2009 due to her quitting her job; she is currently working part-time as a house cleaner 5-10 hours a week earning \$ [REDACTED] respectively.
4. Claimant alleges disability due to medically diagnosed disorders of bi-polar and back disorder.
5. Medical reports of exam states the Claimant on May 25, 2012 had a GAF score of 54 (DHS exhibit A, pg 29).

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.

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 claimant'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 full-time substantial gainful activity since March 2009 and currently she is employed 5-10 hours a week as a house cleaner.

Step 2 disability is denied. The medical evidence of record, on date of application, does not establish the Claimant significant functional mental/physical incapacity to do basic work activities for the required one year continuous duration, as defined below.

...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 Claimant has the burden of proof to establish disability based on the 5 step process above.20 CFR 416.912(a).

[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 a M.D. or D.O. or fully licensed psychologist.20 CFR 416.913(a)(c)(1)(2)

Claimant testified that she cannot work more than her current job 5-10 hours a week due to mental discomfort being in the public; that she has anxiety and stress being around people; and that physically she has intermittent back pain; and that she is limited to lifting/carrying 2 gallons of milk.

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

The medical reports of record are examination, diagnostic, treatment and progress reports, except for the GAF score of 54, and do not provide medical assessments of Claimant's basic work limitations for the required duration. Said differently, do the Claimant's diagnosed medical disorders impair the claimant minimally, mildly, moderately (non-severe impairment as defined above) or severely, as defined above?

Therefore, the Claimant has not sustained her burden of proof to establish a severe mental/physical impairment in combination, instead of the non-severe impairment, for the required duration. Therefore, the sequential evaluation is required to stop.

If Step 2 disability had not been denied, step 3 would also be denied. The medical evidence of record, for the required duration, does not establish Claimant's impairments meet/equal Social Security listed impairment.

If disability had not already been denied at Step 2, it would also be denied at Step 4. The medical evidence of record, on date of application, does not establish the Claimant's functional mental/ physical incapacity, despite her impairments, to perform any of her past work, (Findings of Fact #2), for the required one year continuous duration.

If disability had not already been denied at Step 2, it would also be denied at Step 5. The medical evidence of record, on date of application, establishes the Claimant had a residual functional capacity, despite her impairments, to perform other work in the national economy for the required one year continuous duration.

At Step 5, the burden of proof shifts to the department to establish that Claimant does have a residual functional capacity.20 CFR 416.994(b)(1)(v).

The residual functional capacity is when an individual can do despite limitations. All impairments would be considered in addition to ability to meet certain standards of job in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a)

To determine the physical demands (exertion requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the department of labor.20 CFR 460.967

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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 control. 20 CFR 416.967(b)

Under the Medical-Vocational guidelines, Rule 202.20, a younger individual (age 46), with a high school equivalency education and an unskilled work history who is limited to light work is not considered disabled.

The department program eligibility manual contains the following policy statements and instructions for case workers regarding the state disability assistance program: To receive state disability assistance, a person must be disabled, carrying for a disabled person or age 65 or older. BEM, Item 261, page 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, medical disability has not been established at Step 2 and also would not have been established at Step 3, 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 disability was not medically established.

Accordingly, MA-P/SDA denial is **UPHELD**.

William A. Sundquist

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

Date Signed: February 12, 2013

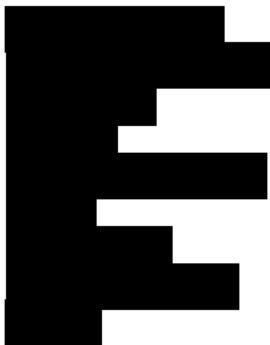
Date Mailed: February 12, 2013

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.

WAS/cr

cc:

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