

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-280
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: January 9, 2013
Eaton 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 January 9, 2013. 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 applied for Medicaid (MA-P) on June 4, 2012 and State Disability Assistance (SDA) on July 5, 2012, was denied on September 17, 2012 and requested a hearing on September 19, 2012.
2. Vocational factors: Age 52, with a 12th grade education, and history as a CATA bus driver (DHS Exhibit A, Pg. 22).
3. Claimant has not held employment since December 12, 2011, due to insulin treatment for diabetes.
4. Claimant's medically diagnosed impairments are diabetes and hypertension without affordable medications.
5. Claimant's disabling symptoms are: physical slow down due to lack of energy with a residual functional capacity (RFC) for fast food type of work.
6. Medical reports of examinations state that the claimant on:

- a. April 19, 2012: was in no acute distress; that she was able to ambulate without the use of any assistive devices and had **normal** gait and station; that her cranial nerves II-XII are grossly **intact**; that manual muscle testing reveals strength at 5/5; that her reflexes were symmetrical at 1/4; that her hand had full grip and digital dexterity; that her gait and station were **normal**; that there was no ligamentous laxity of the ankles or knees; that range of motion (ROM) testing was antalgic, although full; that ROM was normal for the lumbar spine; that her blood sugar has improved and is now at 7.0; that her blood pressure is still not well controlled as well and is quite elevated at 183/102; that her gait and station were **intact** and her hands had full grip and digital dexterity; that unfortunately she lost her CATA bus driver job secondary to be started on insulin (DHS Exhibit A, Pgs. 66 & 67).
 - b. May 15, 2012: has **normal** examination of extremities for edema and/or varicosities; that muscle strength and tone are **normal**; that reflexes are **normal** (DHS Exhibit A, Pg. 47).
7. State Hearing Review Team (SHRT) report dated November 19, 2012 states the claimant's impairments do not meet/equal a Social Security listing (Claimant Exhibit A, Pg. 71).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 established the Claimant has not been engaged in substantial gainful activities since December 12, 2011.

Therefore, the sequential evaluation is required to continue to the next step.

Step 2, disability is denied. The objective medical evidence of record, does not establish the claimant's significant functional physical incapacity to perform basic work activities due to a severe physical impairment 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).

SEVERE IMPAIRMENT

To qualify for MA-P, claimant must first satisfy both the gainful work and the duration criteria (20 CFR 416.920(a)) before further review under severity criteria. If claimant does not have any impairment or combination of impairments which significantly limits physical or mental ability to do basic

work activities, an ultimately favorable disability determination cannot result. (20 CFR 416.920(c)).

The claimant had the burden of proof to establish disability, as defined above, by the preponderance of the objective medical evidence of record...20 CFR 416.912(a).

Claimant admitted that she has a residual functional capacity, despite her diabetes to perform fast food type of work.

If disability had not been denied at Step 2, it would also be denied at Step 3. The objective medical evidence of record does not establish the claimant's impairments meet/equal a Social Security listing.

If disability had not been denied at Step 2, it would also be denied at Step 4. The objective medical evidence of record does not establish the claimant's inability, despite her impairments, to perform her past work as a bus driver with her diabetes under control with medication.

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 department's Bridges eligibility manual contains the following policy statements and instructions for case workers regarding the SDA program: to receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM, Item 261, Pg.1. Because the claimant does not meet the definition of disabled under the MA - P program because the evidence of record does not establish the claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for SDA assistance benefits either.

Therefore, medical disability has not been established at Step 2 and also would not have been established at Steps 3 and 4 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
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.

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/jk

cc:

