

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201311858
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: February 28, 2013
Kent 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 Thursday; February 28, 2013. Claimant appeared and provided testimony on her behalf with representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Was disability, as defined below, medically established for MA-P, and medical recovery for SDA?

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 application August 30, 2012 was denied and terminated for SDA on October 26, 2012 per BEM 260/261, with a hearing request on November 9, 2012.
2. Vocational factors: Age 49, with high school or more education, and semiskilled work experience.
3. Claimant's last employment ended on February 28, 2012.
4. Claimant's alleged disabling symptoms are chronic crying, palpitations and chronic chest pain.
5. Claimant alleged disabling medical disorders are coronary artery disease and depression. (DHS Exhibit A, Pg. 346).
6. Medical reports of exams state the claimant on:

- a. November 30, 2011: Is alert, or oriented times three, and in no apparent distress; that heart sounds are of a regular rate and rhythm; that she has no murmurs, gallops, or rubs; that mood and affect are appropriate; and that memory is *intact*. (DHS Exhibit A, Pg. 363)
- b. January 27, 2012: Has heart size and pulmonary vessels within normal limits. (DHS Exhibit A, Pg. 82)
- c. February 24, 2012: Has no significant cardiopulmonary *abnormality*. (DHS Exhibit A, Pg. 93).
- d. February 27, 2012: Has overall normal strength and tone; that gait and station are *normal*; that overall she is alert and oriented; that coordination is *normal*; and that overall the exam was *normal*. (DHS Exhibit A, Pg. 343).
- e. March 27, 2012: Is in no apparent distress and that her cranial nerves II-XII are grossly intact. (DHS Exhibit A, Pg. 479).
- f. April 26, 2012: Is unable to work permanently due to coronary artery disease and depression. (DHS Exhibit A, Pg. 254).
- g. May 23, 2012: Indicated she is doing a great deal better; that she is obviously doing better; that she is not emotional; and that she is not having open tearing and her energy level has picked up; that she denies chest pain and chest tightness; that her exam is *unremarkable*. (DHS Exhibit A, Pg. 521).
- h. September 10, 2012: Has a deteriorating condition; that she is limited to lifting/carrying frequently less than 10 pounds and occasionally 20 pounds; that she is able to stand and/or walk less than 2 hours in an 8 hour workday and sit less than 6 hours in an 8 hour day; that she is able to use her extremities on a repetitive basis except for reaching/pulling activity; that she is mentally limited in comprehension, sustained concentration, and social interaction. (DHS Exhibit A, Pg. 536).
- i. October 10, 2012: Has a GAF score of 50-55 (52 ½). (Claimant Exhibit 1, Pg. 26).

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 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).

The claimant had the burden of proof to establish disability in accordance with steps 1-4 above... 20CFR 416.912 (a). The burden of proof shifts to the DHS at Step 5... 20CFR 416.960 (c)(2).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

Acceptable medical verification sources are licensed physicians, osteopaths, or certified psychologists ...20CFR 416.913(a)

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Step 1

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

The evidence of record established that the claimant has not engaged in substantial gainful activity since February 28, 2012. Therefore, the sequential evaluation is required to continue to the next step.

Step 2

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

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).

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).

...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).

The medical reports of record are mostly examination, diagnostic, treatment and progress reports. They do not provide medical assessments of Claimant's basic work limitations for the required duration. Stated differently, the medical reports do not establish whether the Claimant is impaired minimally, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above.

The claimant's disabling symptoms (Findings of Fact #4) are inconsistent with the objective medical evidence of record (Findings of Fact #6).

...Your symptoms, including pain, will be determined to diminish your capacity for basic work activities...to the extent that your alleged functional limitations and restrictions due to symptoms, such as pain, can reasonably be accepted as consistent with the objective medical evidence and other evidence. 20 CFR 416.929(c)(4).

...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).

Claimant had a GAF score of 50-55 (52 ½) in October, 2012. This is considered a moderate (not severe) mental impairment with occupational functioning. DMS-IV (4th edition- revised).

The medical conclusion in April, 2012 states the Claimant's unable to work permanently due to coronary artery disease and depression.

...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 (Findings of Fact #6) state that Claimant's examinations were within normal limitations; that her impairments were minimal to moderate (not severe); and that her condition has improved (not deteriorating).

The Claimant has not sustained her burden of proof to establish a severe mental/physical impairment in combination, instead of a non-severe impairment, for the required one year continuous duration.

Therefore, the sequential evaluation is required to stop at Step 2.

The department's Bridges 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.

To receive SDA, a person must be unable to work. BEM 261, Pg. 1. The objective medical evidence did not establish a severe impairment under Step 2 above. Therefore, the Claimant is no longer disabled under the SDA program.

Therefore, Claimant has not sustained her burden of proof to establish disability, as defined above, by the competent, material, and substantial evidence on the whole

record for the MA-P program . The DHS has sustained its burden of proof to establish medical recovery under the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides disability was not medically established for MA-P program and medical recovery for the SDA program.

Accordingly, MA-P denial and SDA termination is **UPHELD** and so ORDERED.

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

Date Signed: June 14, 2013

Date Mailed: June 17, 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/hj

cc:

