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

### IN THE MATTER OF:



Reg. No:
201328897

Issue No:
2009; 4031

Case No:
Image: Comparison of the second second

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 Cla imant's request for a hearing. After due notice, an in person hearing was held on Tuesday; June 4, 2013. Cla imant appeared and provided testimony on his behalf with the transmission behalf of the Department of Human Services (Department) included the transmission.

## ISSUE

Was disability, as defined below, medically established?

# FINDINGS OF FACT

The Administrative Law Judge, based upon t he competent, material, and substantial evidence on the whole record, finds as material fact:

- 1. Claimant's MA-P/SDA applicat ion June 27, 2012 was denied on January 30, 2013 per BEM 260/261, with a hearing request on February 4, 2013.
- 2. Vocational factors: Age 43, with a 8<sup>th</sup> grade education, and unskilled work experience.
- 3. Claimant's last employment ended before date of application.
- 4. Claimant's alleged disabling symptoms are depression, chronic feet pain radiating up to low to mid back; intermittent/numbness in hands, chronic neck and shoulders pain.
- 5. Medical reports of exams state the claimant on:
  - a. December 22, 2011: Has a GAF sco re of 48. (DHS Exhibit A, Pg. 22).

- b. June 20, 2012: Is fully oriented. (DHS Exhibit A, Pg. 69).
- c. July 5, 2012: Examination of lumbar spin e is within *normal* limits. (DHS Exhibit A, Pg. 43).
- d. October 3, 2012: Has a deteri orating condition and sev ere depression. (DHS Exhibit A, Pg. 10).
- 7. State Hearing Rev iew Team dec ision dated April 14, 2013 states the Claimant's impairments do not meet/equal a Social Se curity listing for the required duration. (DHS Exhibit A, Pg. 81).

## CONCLUSIONS OF LAW

The State Disability A ssistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Service s (DHS or department) admin isters the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department polic ies ar e found in the Bridg es Administrative Manua I (BAM), the Bridges Elig ibility Manual (B EM) and the Bridges Reference Manual (BRM).

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by T itle 42 of the C ode 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).

"Disability" is:

...the inability to do any substant ial 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 y ou are disabled. We review any current work activity, the severity of your impairment(s), your resi dual functional capacity, your past work, and your age, educati on 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 sequentia I order. If dis ability can be ruled out at any step, analysis of the next step is <u>not</u> required. These steps are:

1. Does the client perf orm S ubstantial 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 t o last 12 months or more or result in death? If no, the cl ient is i neligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).

3. Does the impairment appear on a spec ial listing of impairments or are the clie nt's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings spec ified for the listed im pairment? 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 anal ysis continues to Step 5. 20 CFR 416.920(e).

5. Does the client have the Residual Functional Capacity (RFC) to perform oth er work ac cording to the guidelines set forth at 20 CFR 404, Subpar t P, Appendix 2, Sec tions 200.00-204.00? If yes, the anal ysis ends and the c lient 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 m edical sources.... 20 CFR 416.913(a).

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

...The med ical evidence...mus t 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 capac ity to do w ork-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 m edical 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 before date of application. Therefore, the sequent ial evaluation is required to continue to the next step.

#### Step 2

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

**Basic w ork activities.** When we talk about basic work activities, we mean the abilities and aptitudes neces sary 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 signific antly limit your physical or mental ability to do bas ic 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 di sabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

The medic al reports of record are mostly examination, diagnostic, treatment and progress reports. They do not provide medi cal assessments of Cla imant's basic work limitations for the required dur ation. Stated differently, the me dical reports do not establish whether the Claimant is impaired mi nimally, mildly, m oderately (non-severe impairment, as defined above) or severely, as defined above.

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

...Your sy mptoms, i ncluding pain, will be determined t o 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 accept ed as consistent with the objectiv e medica I evid ence 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 s how that you have a medical impairment.... 20 CFR 416.929(a).

Claimant had a GAF score of 48 in Dec ember, 2011. This is considered a sever e mental impairment with occupational functioning. DSM IV (4<sup>th</sup> edition- revised).

The medic al evidenc e of record does not establish the Claimant's abnormal mental findings have persisted on a regular and continuing basis on repeated examinations for a reasonable presumption to be made that mental impairment has lasted or is expected to last for at least one continuous year.

The medic al reports (Findings of Fact #6) state the Claimant's examinations were basically within normal limitations ; that his impairments were minimal to mo derate (not severe); and that his condition was deteriorating.

The Claim ant has not sustained his burden of proof to establish a severe mental 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 As sistance program: to

#### 201328897/WAS

receive State Disability Assist ance, a person must be dis abled, caring for a disable d person or age 65 or older. BEM , Item 261, p. 1. Because the claimant does not meet the definition of disabled u nder the MA-P program and becaus e the evidence of record does not establish that claimant is unable t o work for a period exceeding 90 days, the claimant does not meet the disability criteria for Stat e Disability Assistanc e benefits either.

Therefore, medical disability has not been established at Step 2 by the competent, material and substantial evidence on the whole record.

#### DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides disability was not medically established.

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

<u>/s/</u>

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

Date Signed: June 7, 2013

Date Mailed: June 10, 2013

**NOTICE:** Administrative Hearings may or der a re hearing or reconsideration on either its own motion or at t he request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion 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:

