

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20132996
Issue No: 2009
Case No: [REDACTED]
Hearing Date: January 31, 2013

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, January 31, 2013. Participants on behalf of the claimant included the claimant and representative, [REDACTED]. 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 March 22, 2012 was denied on July 31, 2012 per BEM 260/261, with a hearing request on October 2, 2012.
2. Vocational factors: Age 49, ninth grade education, and history of unskilled work cleaning spilled beet s from an unloading truck, and semiskilled work as a welder. (DHS Exhibit A, Pg. 8).
3. Last employment ended November, 2012 due to a layoff.
4. Disability is alleged disability due to bipolar disorder , major depression, anxiety, chronic obstructive pulmonary disease, asthma, and kidney problems. (DHS Exhibit A, Page 420).
5. Medical reports of record state the Claimant on:
 - a. May 28th, 2011: Is alert and oriented times three; and that cranial nerves II-XII are grossly *intact*. (DHS Exhibit A, Pg. 119).

- b. May 28, 2011: Is in no acute distress; that he is alert and oriented times three, that cranial nerves II-XII are grossly *intact*; that upper and lower extremities sensation is *intact* to sharp and dull; that musculoskeletally his strength his strength is 5/5 in the upper extremities, that psychiatrically he has a normal affect and negative depressed mood. (DHS Exhibit A, Pg. 123)
 - c. January 31, 2012: Has a GAF score of 45. (DHS Exhibit A, Pg. 409).
 - d. March 17, 2012: Has a stable condition. (DHS Exhibit A, Ph. 32).
 - e. March 17, 2012: Has a GAF score of 25. (DHS Exhibit A, Pg. 6).
 - f. March 18, 2012: Has a GAF score of 50. (DHS Exhibit A, Pg. 413).
 - g. March 20, 2012: Has a GAF score of 30. (DHS Exhibit A, Pg. 24).
 - h. March 21, 2012: Is alert with cranial nerves II-XII grossly *intact*. (DHS Exhibit A, Pg. 28).
 - i. March 20, 2012: Has a GAF score of 50. (DHS Exhibit A, Pg. 51).
6. State Hearing Review Team decision dated November 15, 2012 states the Claimant's impairments do not meet/equal a Social Security listing (DHS Exhibit A, Pg. 420).

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 Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained 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.

The burden of proof is on the claimant to establish disability in accordance with the 5 step process below. ...20 CFR 416.912(a).

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 November, 2012.

Step 2, disability is denied. The medical evidence of record, on date of application, based on the de minimus standard, does establish the Claimant's significant functional

incapacity to perform basic work activities due to a severe mental impairment, but not for the required one year continuous duration, as defined below.

The medical evidence of record does not establish a severe physical impairment for the required one year continuous duration, as defined below.

I15005, I15117, I15118

Severe/Non-Severe Impairment

...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 disabling physical symptoms are not supported by the objective medical evidence of record. (Findings of Fact #5). The medical exams were not *abnormal* and *unremarkable*. The impairments were mild to moderate severity (not severe).

Appropriate abnormal mental findings have not been shown to have persisted on repeated examinations, despite therapy for a reasonable presumption to be made that a severe mental impairment will last for the required one year duration.

The medical evidence of record established GAF scores of 45 in January, 25, 30, and 50 in March, 2012. These scores are considered a severe mental impairment with occupational-function. DSM-IV (4th Edition, Revised)

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

If disability had not already been denied at Step 2, it would also be denied at Step 3. The medical evidence of record, on date of application, does not establish the Claimant's impairments meet/equal a Social Security listing for the required duration.

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, establishes the Claimant's mental/physical functional incapacity, despite his impairments, to perform any of her past work for the required 1 year continuous duration.

If disability had not already been denied at Step 2, it would also be denied at Step 5. At this step the burden of proof shifts to the department to establish that Claimant has a residual functional capacity. The medical evidence of record, on date of application, establishes the Claimant has a residual functional capacity (RFC), despite her impairments, to perform other work in the National Economy.

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor.... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and

standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

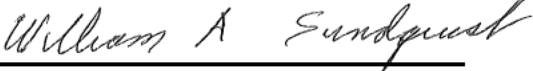
The medical evidence of record, on date of application, establish the Claimant has a RFC for less strenuous work s similar to past work, such as sedentary work, as defined above. Under the Medical- Vocational Guidelines, Rule 201. 27, states a younger individual age 49, with a 9th grade education, and uns killed work history whose limited to sedentary work is not considered disabled.

Therefore, disability has not been establish at Step 2 and also would not be established at Steps 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 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.

WAS/hj

cc:

