

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 20133864  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: January 31, 2013  
Bay 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, January 31, 2013. Claimant appeared with [REDACTED] 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. On July 18, 2012, claimant applied for Medicaid. (June Retro), was denied on August 9, 2012 for DEM 260, and requested a hearing on October 10, 2012.
2. Claimant was age 41 with a tenth grade education and semi-skilled work history as a supervisor or a floor cleaning crew, and a cleaning janitor. (DHS Exhibit A, Pg. 213, Pg. 7).
3. Claimant's last employment ended September 15, 2009 due to being fired.
4. Claimant's diagnosed medical disorders are gastrointestinal bleed, gout, depression, anxiety with panic attacks, uncontrollable high blood pressure, high cholesterol, back problems, and obesity.
5. Medical reports of exams states the claimant on:

- a. February 17, 2009: Is cooperative in answering questions and following commands, that his immediate, recent, and remote memory is *intact* with *normal* concentration; that his insight and judgment are both *appropriate*; that musculoskeletally there is no evidence of joint laxity, crepitation, and effusion; that grip strength remains *intact*, that dexterity is *unimpaired*, that he could pick up a coin and open a door; that he had *mild* difficulty getting in and out of a chair, *moderate* heel and toe walking, *moderate* difficulty squatting, and *moderate* difficulty standing on either foot; that there is cervical and lumbar spine straightening; that straight leg raising is negative; that there is no Paravertebral muscle spasms; that range of motion is *normal* for the dorsolumbar spine, cervical spine, shoulders, elbows, wrists, knees, hips, ankles, hands -fingers; that cranial nerves are *intact*, that motor strength and tone are *normal*; that the Romberg testing is negative; that he walks with a small step and wide base gait without the use of an assist device; that he does have a history of *obesity*; that he had *moderate* difficulty walking heel and toe; that he walks with a small step, wide base gait but remains relatively *stable* as far as balance is concerned; and that his degree of impairment appears *moderate* and prognosis appears fair. (DHS Exhibit A, Pg. 201-204).
- b. October 28, 2011: Denies any complaints of anxiety, behavior issues, reports symptoms of depression as *mild*; that he denies any side effects from his medications; and that he states that he is tolerating his medications *well*. (DHS Exhibit A, Pg. 26).
- c. January 7, 2012: Is attentive and cooperative; that his mood and affect are *appropriate*; that his speech is *normal*; that thought/process/perceptions are *appropriate*; that gait and posture are *normal*. (DHS Exhibit A, Pg. 10-11).
- d. February 11, 2012: That gait and posture are normal (DHS Exhibit A, Pg. 90).
- e. April 9, 2012: The mood and affect are appropriate; that thought/process/perceptions are *appropriate*. (DHS Exhibit A, Pg. 87).
- f. May 15, 2012: That affect is *appropriate*; that speech is normal, logical, and coherent for his age of intellect; that he is oriented to person and place; that memory and concentration are *intact*. (DHS Exhibit A, Pg. 15).
- g. June 30, 2012: Is in no acute distress. (DHS Exhibit A, Pg. 59).

### **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 September 15, 2009.

Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the Claimant's significant functional incapacity to perform basic work activities due to a severe mental/physical impairment in combination for the required one year continuous duration, as defined below.

### **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).

### 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)).

Claimant testified that he is unable to do any work; that his disabling mental symptoms are depression and unexpected panic attacks; that his disabling physical impairments are chronic neck and back pain; and that he is limited/carrying the weight of one gallon 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. They do not provide medical assessments of Claimant's mental/physical basic work limitations. Stated differently, how do the Claimant's medically diagnosed disorders significantly incapacitate her functional ability to perform basic work activities for the required duration. Do the disorders impair the Claimant's ability slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

Claimant's disabling symptoms are *not* supported by the objective medical evidence or record. (Findings of Fact #5).

The medical exams were normal and unremarkable; that the claimant admitted that his depression was *mild* (not severe) and denied having anxiety.

Therefore, the Claimant has not sustained his 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, does not establish the Claimant's mental/physical functional incapacity, despite her impairments, to perform any of her past work. (Findings of Fact #2).

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, establish 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).

Under Step 4, the claimant introduced no objective medical evidence of record or his inability, despite his impairments, to perform any of his past work. (Findings of Fact #2).

The medical evidence of record, on date of application, establish the Claimant has a RFC for less strenuous work similar to his past work, such as sedentary work, as defined above. Under the Medical-Vocational Guidelines, Rule 201.27, states a younger individual age 47, with a 10th grade education, and an unskilled work history whose limited to sedentary work is not considered disabled.

Therefore, medical disability has not been established 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*

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:

