

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

**IN THE MATTER OF:**



Reg. No: 20137386  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Hearing Date: March 12, 2013  
Wayne County DHS #57

**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 Tuesday; March 12, 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's MA-P (and 3 months retro) /SDA application March 6, 2012 was denied on October 3, 2012 per BEM 260/261, with a hearing request on October 9, 2012.
2. Vocational factors: Age 46, with a 12<sup>th</sup> grade education, and semiskilled work experience.
3. Claimant's last employment ended in June, 2011.
4. Claimant's alleged disabling symptoms are does not like being around people socially and prefers to be alone, and bilaterally low back pain and left knee pain.
5. Claimant alleged disabling medical disorder bipolar disorder, spinal bifida, schizophrenia, arthritis in left leg, and bilateral carpal tunnel syndrome (DHS Exhibit A, Pg. 48).

6. Medical reports of exams state the claimant on:
  - a. Was oriented times three with a GA F score of 30; that her memory was *unremarkable*. (DHS Exhibit A, Pgs. 20-21).
  - b. May 30, 2012: Was able to ambulate without the assistance of an ambulatory device; that she is independent with basic activities of daily living and advanced activities of daily living; that she is alert and oriented times three; that cranial nerves II-XII are *intact*; that she has no evidence of focal muscle atrophy in the right or left upper or lower extremities; that muscle tone is *normal* in all extremities; that she has decrease in painful range of motion in the cervical and lumbar spine; that she has a normal sensation to pinprick, light touch, vibration, and position; that coordination is *intact*; that thoracic spine and rib cage is normal; that there is no significant muscle atrophy in the upper extremities; that she is able to ambulate without the use of an assistive device; that she is able to tandem walk; that she can sit and stand without assistance; that she is able to bend, stoop, and stop with accompanying low back pain; that she is able to carry, push, and pull; that she is able to sit, stand, bend, stoop, push, pull, button clothes, tie shoes, dress-undress, dial telephone, open door, make a fist, pick up coin, pick up pencil, write, squat and rise from squatting, get on and off examining table, and climb stairs; that she is able to walk in tandem; that her gait is steady and within normal limits; that she has a normal range of motion of the cervical spine, lumbar spine, shoulders, elbows, hips, knees, ankles, wrists, and hands-fingers. (DHS Exhibit A, Pgs 35-41).
  - c. May 30, 2012: Had a GAF score of 45. (DHS Exhibit A, Pg. 44).
  - d. October 23, 2012: Had a GAF score of 46. (Claimant Exhibit 1, Pg. 3).
7. State Hearing Review Team decision dated December 14, 2012 states the Claimant's impairments do not meet/equal a Social Security listing for the required duration. (DHS Exhibit A, Pg. 47).

### **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 June, 2011. 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 Claimant had GAF scores of 30 in March, 2012 and 45 in May, 2012 and 46 in October, 2012. These scores are considered a severe mental impairment with occupational-functioning. DSM IV (4<sup>th</sup> edition- revised).

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

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).

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 is stable (not deteriorating).

The Claimant has not sustained his burden of proof to establish a severe physical/mental impairment(s) 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.

Therefore, medical disability has not been established at Step 2, and also would not have been 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/SDA denial is **UPHELD** and so ORDERED.

/s/  
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 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:

