

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 2013-853  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Hearing Date: February 5, 2013  
Wayne County DHS #49

**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, a telephone hearing was held on Tuesday, February 5, 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/SDA application on August 6, 2013 was denied on September 17, 2012 per BEM 260/261, with a hearing request on September 20, 2012.
2. Vocational factors: Age [REDACTED] with a high school or more education, and has 15 year history of unskilled work in school security and cashier, and semi-skilled experience as a medical billing clerk. (DHS Exhibit A, Pg. 23).
3. Last employment ended November 6, 2010 due to claimant quitting and thereafter became an ECD recipient with exhaustion on July 23, 2012.
4. Claimant's diagnosed medical impairments are back pain, hypertension, headaches, depression, bi-polar, and endometriosis. Claimant's disabling mental/physical symptoms are chronic mood swings and depression, non-alertness due to medication, chronic back and pelvic pain, and limited to lifting/carrying one gallon of milk.

5. Medical reports of record state the Claimant on:
- a. August 30, 2011: Has *normal* lumbar vertebrae and signal and height; that the conus medullaris and cauda equina appear *normal*; that the paraspinal soft tissues are *unremarkable*; that the lumbar discs are *normal*, and signal and configuration; and that she has normal MRI of the lumbar spine. (DHS Exhibit A, Pg. 37).
  - b. September 15, 2011: Has a *normal* thoracic vertebrae and signal, height and alignment; that the thoracic spinal cord appears *normal* in signal and configuration; that there is *no* syrinx mass or other cord signal *abnormality*; that the paraspinal soft tissues are *unremarkable*; that the thoracic discs are *normal* in signal and configuration; and that she had a normal MRI of the thoracic spine. (DHS Exhibit A, Pg. 38).
  - c. January 31, 2012: Needs housework services, transportation services from September 30, 2011- February 29, 2012; that she should not engage or attempt to engage in activities that would aggravate her underlying condition by lifting greater than the amount listed above, *excessive* bending, twisting, turning, or *prolonged* standing or sitting, running, climbing, biking, etc. (DHS Exhibit A, Pg. 40).
  - d. June 14, 2012: Has a GAF score of 45. (DHS Exhibit A, Pg. 17).
  - e. June 14, 2012: Is not significantly limited in ability to remember locations and work-like procedures, understand and remember one or two-step instructions, maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness; and that she is moderately limited in ability to understand and remember detailed instructions, carry out simple one or two-step instructions, carry out detailed instructions, perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, interact appropriately with general public, ask simple questions or request assistance, get along with coworkers or peers without distracting them or exhibiting behavioral extremes, respond appropriately to change in work settings, be aware of normal hazards and take appropriate precautions, travel to unfamiliar places or use public transportation, and set realistic goals to make plans independently of others; and that she is markedly limited in ability to maintain attention and concentration for *extended* periods, sustain an ordinary routine *without supervision*; work in coordination with or proximity to others without being distracted by them, complete a normal workday and work sheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, ability to ask simple questions or request assistance,

accept instructions and respond appropriately to criticisms from supervisors. (DHS Exhibit A, Pgs 19-20).

f. Undated: Is *normal* musculoskeletal; that she has a bipolar disorder; and that her condition is *stable*. (DHS Exhibit A, Pg. 15).

6. State Hearing Review Team decision dated November 20, 2012 states the Claimant's impairments do not meet/equal a Social Security listing (DHS Exhibit A, Pg. 42).

### **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).

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).

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

The burden of proof shifts to DHS at step 5... 20 CFR 416.912(b)

Step 1, disability is not denied. The evidence of record established the Claimant has not been engaged in substantial gainful activities since November 6, 2010. Therefore, the sequential evaluation is required to continue to the next step.

Step 2, disability is denied. The objective 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)).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

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

Acceptable medical sources about your impairments are an M.D. or D.O. or fully licensed psychologist. Medical reports would include:

- Your ability to do work-related activities such as sitting, standing, moving about, lifting, carrying, handling objects, hearing, speaking, and traveling.
- In cases of mental impairments, your ability to reason or make occupational, personal, or social adjustments. ...20 CFR 416.913(a)(c)(1) and (2).

The objective medical evidence of record established the Claimant's GAF score of 45 in June 2012. This score is considered a severe mental impairment with occupational functioning. DSM-IV (4th edition-revised).

The medical evidence of record does not establish the claimant's abnormal, mental findings have persisted on repeated examinations for a reasonable presumption to be made that a severe mental impairment has lasted or is expected to last for at least a one year of continuous duration. Also, the medical conclusion states that the claimant was physically restricted from September 30, 2011- February 29, 2012 (five months duration), less than the one year continuous duration.

The objective medical evidence of record (Findings of Fact #6) does not support the claimant's disabling condition (Findings of Fact #5).

The medical evidence of record is examination, diagnostic, treatment and progress reports. They do not provide medical assessments of Claimant's 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?

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

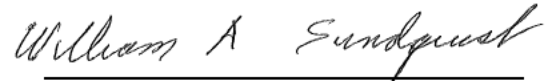
The department's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 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, 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  
Administrative Law Judge  
For Maura D. Corrigan, Director  
Department of Human Services

Date Signed: April 5, 2013

Date Mailed: April 5, 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:

