

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-52035  
Issue No.: 4031  
Case No.: [REDACTED]  
Hearing Date: October 17, 2013  
County: Bay

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was commenced on October 17, 2013, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] [REDACTED]

**ISSUE**

Whether the Department of Human Services (the department) properly denied Claimant's application for State Disability Assistance (SDA)?

**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 March 5, 2013, Claimant filed an application for SDA benefits alleging disability.
- (2) On May 23, 2013, the Medical Review Team (MRT) denied Claimant's application for SDA due to lack of duration. (Depart Ex. A, pp 1-2).
- (3) On May 28, 2013, the department caseworker sent Claimant notice that her application for SDA was denied.
- (4) On June 6, 2013, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On August 15, 2013, the State Hearing Review Team (SHRT) found Claimant was not disabled and retained the capacity to perform simple and repetitive tasks. (Depart Ex B, pp 1-2).

- (6) Claimant has a history of tendonitis, gout, chronic obstructive pulmonary disease (COPD), asthma, learning disability, depression, anxiety, panic disorder and posttraumatic stress disorder.
- (7) Claimant is a 44 year old woman whose birthday is [REDACTED] Claimant is 5'5" tall and weighs 175 lbs. Claimant completed the tenth grade. Claimant last worked in 2007.
- (8) Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.

### **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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

Disability is defined as 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(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory

findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant is not involved in substantial gainful activity and testified that she has not worked since 2007. Therefore, she is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to tendonitis, gout, chronic obstructive pulmonary disease (COPD), asthma, learning disability, depression, anxiety, panic disorder and posttraumatic stress disorder.

On [REDACTED], Claimant's Nurse Practitioner completed a psychiatric Assessment of Claimant. Claimant complained of discomfort in her feet bilaterally and believed she may have gout. She maintains appropriate eye contact and is overall cooperative with the examination. Her speech is well-modulated, clear and coherent.

Her thoughts appear logical and goal directed. She denies any auditory or visual hallucinations. She appears alert and oriented in all spheres. Her stated mood is described as "pretty good," with an appropriate affect. She appears to have insight. Judgment is intact. Diagnosis: Axis I: Major Depression, recurrent; Anxiety Disorder; History of polysubstance abuse; History of crack cocaine dependence; Axis II: Deferred; Axis III: Asthma, Sinus problems, Tendonitis bilaterally in her hands. Rule out gout, bilateral feet; Axis IV: Financial stressors; Stressful interpersonal relationships with recent separation; Axis V: GAF 45-50.

On [REDACTED], a Nurse Practitioner completed a Psychiatric/Psychological Examination Report on Claimant. Claimant was attending group therapy and prescribed Prozac, Visteril and Trazodone. Claimant stated that she was doing fairly well overall and that her mood has been stable on her current combination of medications. She denies noticing any increase in her depressive symptoms or any increase in her anxiety. She does report some increased sedation, which she believes may be related to her medications, but she reports that at this point she feels that any side effects she may be experiencing are outweighed by the benefits of her medications. Diagnosis: Axis I: Major Depression; Anxiety; History of polysubstance abuse; History of crack cocaine dependence; Axis V: GAF=45-50.

On [REDACTED], Claimant underwent a psychological evaluation by the [REDACTED]. Throughout the evaluation, Claimant was cooperative and attentive. Results of the mental status examination revealed abnormalities in concentration, general knowledge, memory, judgment, abstract reasoning and calculation tasks. She may struggle with intellectual deficits but no assessments were on file to substantiate this diagnosis. She reported that she was in special education throughout her schooling. Her ability to relate and interact with others, including coworkers and supervisors, is impaired. Her depression and distress could affect her interpersonal relationships in the workplace. Her ability to understand, recall, and complete tasks and expectations seems impaired. Her ability to maintain concentration was poor. As a result of her emotional state, she may often be distracted and her effectiveness and performance will likely be limited and slowed. Her ability to withstand the normal stressors associated with a workplace setting is somewhat impaired. Diagnosis: Axis I: Major Depressive Disorder, recurrent, moderate; Panic Disorder; Learning Disorder; Axis II: No diagnosis; Axis III: Asthma; Tendonitis in hands; Axis IV: Financial problems, unemployment, social isolation; Axis V: GAF=55. Prognosis is poor.

On [REDACTED] during a medication review, Claimant reported that she feels she is doing fairly well overall since her last medication review. She reports that she feels her mood has been stable and she has not noticed any increase in her depressive symptoms or anxiety. At her last medication review she reported that she was experiencing some sedation, which she believed may have been related to her medications. She denies any side effects to her current medications today. She was polite and friendly. Her affect is reactive. Her speech is clear and coherent. Her thoughts seem logical and goal directed.

On [REDACTED] Claimant's primary care physician completed a Medical Examination Report. Claimant was diagnosed with pseudogout arthritis, acute low back pain, GERD and nicotine addiction. The physician indicated Claimant's condition was improving and she had no physical or mental limitations.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Claimant has presented some limited medical evidence establishing that she does have some physical limitations on her ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Claimant has alleged physical and mental disabling impairments due to tendonitis, gout, chronic obstructive pulmonary disease (COPD), asthma, learning disability, depression, anxiety, panic disorder and posttraumatic stress disorder.

Listing 1.00 (musculoskeletal system), Listing 3.00 (respiratory system) and Listing 12.00 (mental disorders) were considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) does not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled at Step 3. Accordingly, Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the individual's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s) and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant has a history of less than gainful employment. As such, there is no past work for Claimant to perform, nor are there past work skills to transfer to other work occupations. Accordingly, Step 5 of the sequential analysis is required.

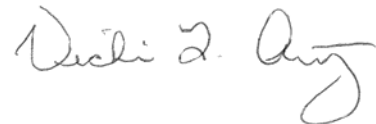
In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(a)(4)(v). At the time of hearing, Claimant was 44 years old and was, thus, considered to be a younger individual for MA-P purposes.

Claimant has a tenth grade education. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from Claimant to the Department to present proof that Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983). The age for younger individuals (under 50) generally will not seriously affect the ability to adjust to other work. 20 CFR 416.963(c).

The objective medical evidence notes no physical or mental limitations. In light of the foregoing, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis which includes the ability to meet the physical and mental demands required to perform at least sedentary work as defined in 20 CFR 416.967(a). After review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.18, it is found that Claimant is not disabled for purposes of the SDA program at Step 5.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant not disabled for purposes of the SDA benefit program. Accordingly, it is ORDERED the Department's determination is **AFFIRMED**.



---

Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: October 22, 2013

Date Mailed: October 22, 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

VLA/las

cc:

