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

IN THE MATTER OF:

[redacted]

Reg. No.: 201367200
Issue No.: 2009
Case No.: [redacted]
Hearing Date: January 22, 2014
County: Isabella County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 22, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [redacted] and [redacted]. Participants on behalf of the Department of Human Services (Department) included [redacted]. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence.

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant did not meet the disability standard for Medical Assistance (MA-P) based on disability?

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 April 23, 2013, the Claimant submitted an application for Medical Assistance (MA) benefits alleging disability.

2. On July 10, 2013, the Medical Review Team (MRT) determined that the Claimant did not meet the disability standard for Medical Assistance (MA-P) because it determined that she is capable of performing past relevant work despite her impairments.

3. On July 16, 2013, the Department sent the Claimant notice that it had denied the application for assistance.

4. On September 6, 2013, the Department received the Claimant's hearing request, protesting the denial of disability benefits.

5. On October 21, 2013, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of Medical Assistance (MA-P) benefits.

6. On April 21, 2014, after reviewing the additional medical records, the State Hearing Review Team (SHRT) again upheld the determination of the Medical Review Team (MRT) that the Claimant does not meet the disability standard.

7. The Claimant applied for federal Supplemental Security Income (SSI) benefits at the Social Security Administration (SSA).

8. The Claimant is a 43-year-old woman whose birth date is [redacted]

9. Claimant is 5' 4" tall and weighs 127 pounds.

10. The Claimant attended college.

11. The Claimant is able to read and write and does have basic math skills.

12. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.

13. The Claimant has past relevant work experience as an office manager where she was required to type, file, manage schedules, and answer telephones.

14. The Claimant's disability claim is based on heart problems, fibromyalgia, lupus, and arthritis.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, Rule 400.901 - 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. Mich Admin Code, R 400.903. Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2013), pp 1-44.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under

the Medical Assistance and State Disability Assistance (SDA) programs. Under SSI, disability is defined as:

> …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.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order.

STEP 1

Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is not disabled.

At step 1, a determination is made on whether the Claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.l572(a) and 4l6.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.l572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that she has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

The Claimant testified that has not been employed since 2011, and is not currently engaged in substantial gainful activity, which was not disputed by the Department during the hearing. Therefore this Administrative Law Judge finds that the Claimant is not engaged in substantial gainful activity and is not disqualified from receiving disability at Step 1.

STEP 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 not disabled.

At step two, a determination is made whether the Claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404. l520(c) and 4l6.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921. If the Claimant does not have a severe medically determinable impairment or combination of

impairments, she is not disabled. If the Claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

The Claimant has the burden of proof of establishing that she has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months, or result in death.

The Claimant is a 43-year-old woman that is 5' 4" tall and weighs 127 pounds. The Claimant alleges disability due to heart problems, fibromyalgia, lupus, and arthritis.

The objective medical evidence indicates the following:

> A treating physician diagnosed the Claimant with chest discomfort with risk factors for coronary artery disease, specifically tobacco abuse, but significant proximal coronary artery disease was ruled out. A treating physician determined that the Claimant has normal left ventricular systolic function, and her ejection fraction is 65-70%. A treating physician determined that the Claimant suffers from mild tricuspid regurgitation with normal right ventricular systolic pressure. A cardiac stress test conducted on March 26, 2013, revealed no definite conclusive evidence of ischemia, and ventricular ejection fraction was 72%.
>
> The Claimant was admitted for inpatient treatment on March 11, 2013, due to atypical chest pain and shortness of breath. A treating physician determined that the Claimant's chest pain was atypical in nature, and blood enzyme tests and electrocardiography scans were negative.
>
> A treating physician diagnosed the Claimant with fibromyalgia and diffuse myalgia, adult cervical dystonia with anterocollis and daily headaches, thoracic spinal pain with a clinical picture of upper thoracic kyphosis, bilateral lateral epicondylitis and left de Quervain's tenosynovitis, lumbosacral spondylosis with positive lumbar facet syndrome, abnormal posture, sleep disturbances, major depressive disorder, posttraumatic stress disorder, Raynaud's syndrome in the hands and feet.
>
> An x-ray scan of the Claimant's lungs revealed no native pulmonary infiltrates.
>
> A consultative physician found the Claimant to be fully oriented, and diagnosed her with major depressive disorder and posttraumatic stress disorder. The consultative physician found the Claimant to have mild symptoms but generally functions pretty well and is capable of meaningful interpersonal relationships.
>
> The Claimant is capable of preparing meals, washing dishes, and washing laundry. The Claimant is capable of caring for her personal needs including showering and dressing herself without assistance. The Claimant smokes a pack of cigarettes on a daily basis.

The evidence on the record indicates that the Claimant's was been diagnosed with major depressive disorder and posttraumatic stress disorder. The Claimant also suffers from chronic pain. The pain reported by the Claimant could be reasonably be expected to arise from the conditions the Claimant has been diagnosed with. Therefore, this Administrative Law Judge finds a combination of the Claimant's mental and physical impairments have more than a de minimus effect on the Claimant's ability to perform work activities. The Claimant's impairments have lasted continuously, or are expected to last for twelve months.

STEP 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.

At step three, a determination is made whether the Claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the Claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the Claimant is disabled. If it does not, the analysis proceeds to the next step.

The Claimant's impairment failed to meet the listing for heart problems under section 4.00 Cardiovascular system. A treating physician found the Claimant to have risk factors for coronary artery disease, but that her ejection fraction was approximately 70%, and that her chest pain is atypical in nature.

The Claimant's impairment failed to meet the listing for lupus under section 14.02 Systemic lupus erythematosus because the objective medical evidence does not support a finding of involvement of two or more organs/body systems, or repeated manifestations of systemic lupus erythematosus with limitations of activities of daily living or social functioning.

The Claimant's impairment failed to meet the listing for arthritis under section 14.09 Inflammatory Arthritis, because the objective medical evidence does not demonstrate an impairment involving a weight-bearing joint and resulting in an inability to ambulate effectively. The objective evidence does not support a finding that the Claimant lacks the ability to perform fine and gross movements with each upper extremity.

The Claimant's impairment failed to meet the listing for depression under section 12.04 Affective disorders, because the objective medical evidence does not demonstrate that the Claimant suffers from marked restrictions of activities of daily living or social functioning. The objective medical evidence does not demonstrate that the Claimant suffers from repeated episodes of decompensation or is unable to function outside a highly supportive living arrangement. A consultative physician found the Claimant to have mild symptoms but generally functions pretty well and is capable of meaningful interpersonal relationships.

The medical evidence of the Claimant's condition does not give rise to a finding that she would meet a statutory listing in federal code of regulations 20 CFR Part 404, Subpart P, Appendix 1.

STEP 4

Can the client do the former work that she performed within the last 15 years? If yes, the client is not disabled.

Before considering step four of the sequential evaluation process, a determination is made of the Claimant's residual functional capacity (20 CFR 404.1520(e) and 4l6.920(c)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the Claimant's impairments, including impairments that are not severe (20 CFR 404.l520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, a determination is made on whether the Claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.l520(f) and 416.920(f)). The term past relevant work means work performed (either as the Claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the Claimant to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the Claimant has the residual functional capacity to do her past relevant work, the Claimant is not disabled. If the Claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium, and 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.

> Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

To determine the skills required in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. These terms have the same meaning as defined in. 20 CFR 416.968.

> Semi-skilled work. Semi-skilled work is work which needs some skills but does not require doing the more complex work duties. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities which are similarly less complex than

> skilled work, but more complex than unskilled work. A job may be classified as semi-skilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks. 20 CFR 416.968(b).

A treating physician found the Claimant to be at risk for coronary artery disease but medical tests have found no conclusive evidence of ischemia. The Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to the Claimant's ability to perform work. The Claimant was found to have mild symptoms of depression but generally functions pretty well and is capable of meaningful interpersonal relationships. After careful consideration of the entire record, this Administrative Law Judge finds that the Claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567 and 416.967.

The Claimant has past relevant work experience as an office manager where she was required to type, file, manage schedules, and answer telephones. The Claimant's prior work fits the description of light and semi-skilled work.

There is no evidence upon which this Administrative Law Judge could base a finding that the Claimant is unable to perform work substantially similar to work performed in the past.

STEP 5

At Step 5, the burden of proof shifts to the Department to establish that the Claimant has the Residual Functional Capacity (RFC) for Substantial Gainful Activity.

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, client is not disabled.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), a determination is made whether the Claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the Claimant is able to do other work, she is not disabled. If the Claimant is not able to do other work and meets the duration requirement, she is disabled.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

The objective medical evidence indicates that the Claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior employment and that she is physically able to do less strenuous tasks if demanded of her. The Claimant's testimony as to her limitations indicates that she should be able to perform light work.

The Claimant was able to answer all the questions at the hearing and was responsive to the questions. The Claimant was oriented to time, person and place during the hearing.

The Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to the Claimant's ability to perform work.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969.

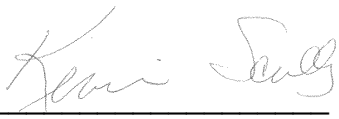
Claimant is 43-years-old, a younger person, under age 50, with a high school education and above, and a history of semi-skilled work. Based on the objective medical evidence of record Claimant has the residual functional capacity to perform light work. Medical Assistance (M.A.) is denied using Vocational Rule 202.21 as a guideline.

It should be noted that the Claimant continues to smoke despite the fact that her doctor has told her to quit. Claimant is not in compliance with her treatment program. If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial activity without good cause there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant ☐ disabled ☒ not disabled for purposes of the Medical Assistance (M.A.) benefits.

DECISION AND ORDER

Accordingly, the Department's determination is ☒ AFFIRMED ☐ REVERSED.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 13, 2014

Date Mailed: May 13, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be received in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

KS/hj

cc: [redacted]