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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-007317
Issue No.: 4009
Case No.: [redacted]
Hearing Date: October 16, 2014
County: WAYNE-57 (CONNER)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 October 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [redacted]. Participants on behalf of the Department of Human Services (Department) included [redacted] and [redacted] APS/HF.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

(1) Claimant applied for SDA on April 30, 2014 .

(2) Claimant is [redacted] years old.

(3) Claimant is not currently working.

(4) Claimant alleged disability due to knee pain and arthritis.

(5) Claimant alleged endometriosis and depression at the hearing, but had not applied for SDA on the basis of these disorders.

(6) Claimant initially submitted as medical evidence one DHS-49, dated June 10, 2014, that gave Claimant, most charitably, sedentary limitations.

(7) This DHS-49 was not supported by any objective medical records.

(8) Claimant submitted additional medical records at the hearing; these records documented knee and back pain, but specifically stated that they were related to a trauma suffered on July 31, 2014, and stated nothing as to whether the conditions would be ongoing.

(9) On July 1, 2014, the Medical Review Team denied SDA.

(10) On July 17, 2014, Claimant was sent a notice of case action.

(11) On July 22, 2014, Claimant filed for hearing.

(12) On October 16, 2014, a hearing was held before the Administrative Law Judge.

CONCLUSIONS OF LAW

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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The 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 BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Federal regulations require that the Department use the same operative definition of the term “disabled” as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a). 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

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five step sequential evaluation, and when a determination can be made at any step as to the Claimant's disability status, no analysis of subsequent steps are necessary. 20 CFR 416.920

The first step that must be considered is whether the Claimant is still partaking in Substantial Gainful Activity (SGA). 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2014 is $1,800. For non-blind individuals, the monthly SGA amount for 2014 is $1070.

In the current case, Claimant testified that she was not working, and the Department has presented no evidence or allegations that Claimant is engaging in SGA. Claimant has not been engaging in SGA during any of the time this application and hearing have been pending. Therefore, the undersigned holds that the Claimant is not performing SGA, and passes step one of the five-step process.

The second step that must be considered is whether or not the Claimant has a severe impairment. A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual's physical or mental ability to perform basic work activities. The term "basic work activities" means 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).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are "totally groundless" solely from a medical standpoint. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, Claimant has not presented evidence of a severe impairment that has lasted or is expected to last the durational requirement of 12 months.

First, it should be noted that though Claimant alleged depression and endometriosis at the hearing, these conditions were not alleged at the initial application and will not be adjudicated here.

The initial medical record consists of a single DHS-49 that gives Claimant, at the very least, sedentary limitations. This DHS-49 does not contain any supporting objective medical documentation, and thus must be given no weight. While Claimant did submit medical records at the hearing that allegedly confirm the conditions alleged, these medical records overtly state that Claimant suffered a trauma on July 31, 2014—a date that occurred well after Claimant requested a hearing—and that this trauma was the cause of any pain Claimant was experiencing. Furthermore, the records clearly state that Claimant told the treating physicians that the complaints described during that visit had never been experienced before. As such, these medical records are inadequate to support Claimant's DHS-49 submission.

Additionally, these medical records contain no opinion as to the duration of Claimant's condition as a result of the July 31, 2014 trauma, and thus cannot be used to show Claimant meets SDA duration requirements as of the hearing. The records note that Claimant is under acute care, which indicates that her doctors did not believe that Claimant's complaints were lasting ones.

No objective medical records showing continuing reduced functional capacity were submitted. There is no evidence that Claimant's acute conditions will meet durational requirements. As such, Claimant as failed to meet their burden of proof in presenting evidence of a severe impairment, and as such, fails to pass step 2.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that the Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities for a period of 12 months or more. 20 CFR 416.920(c).

The medical record as a whole does not establish any impairment that would impact Claimant's basic work activities for a period of 12 months or 90 days (for the purposes of the SDA program). There are no current medical records in the case that establish

that Claimant continues to have a serious medical impairment. There is no objective medical evidence to substantiate the Claimant's claim that the impairment or impairments are severe enough to reach the criteria and definition of disabled. Accordingly, after careful review of Claimant's medical records, this Administrative Law Judge finds that Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) or SDA program.

As a finding of not disabled can be made at the step two of the five step process, no further analysis is required. 20 CFR 416.920

However, it should be noted that if the undersigned were to hold the DHS-49 as adequate to pass step 2, Claimant would still be found not disabled. Assuming that Claimant passes steps 3 and 4 of the process, at step 5, based on Claimant's treating source opinions, Claimant would be found not disabled. Claimant's own treating source gives Claimant sedentary restrictions (under the most charitable reading) which would direct a finding of not disabled under Rule 201.25. As such, even if Claimant did meet the *de minimus* requirements of step 2, Claimant would still be ineligible for SDA under a full analysis.

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 ☒ not disabled for purposes of the MA and/or SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is ☒ AFFIRMED

Robert Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

RJC / tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc: