

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-2814
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 13, 2008
Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on May 13, 2008. Claimant personally appeared and testified.

ISSUE

Did the department properly deny claimant's first Medicaid (MA) application, filed on June 15, 2007?

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 is a single, nearly 35-year-old male ([REDACTED]) with an Associates Degree in Marketing who lives with his father, per his hearing testimony.

(2) Claimant stands approximately 6'0" tall and weighs approximately 170 pounds; he is right hand dominant.

- (3) Claimant is fully independent in all self cares and basic living activities.
- (4) The department approved claimant eligible for a disability-based cash grant (SDA) effective December 1, 2007; these benefits are ongoing.
- (5) The department approved claimant eligible for disability-based medical coverage (MA) due to the severity of his ongoing symptoms with onset established as of June 1, 2008, but not earlier (application date: 9/8/08)(Client Exhibit C).
- (6) Claimant has a long history of recurrent depression; he was inpatient on the psychiatric unit twice; specifically, in September 2007, and again in February 2008.
- (7) Claimant was diagnosed as bipolar in 2006.
- (8) Claimant has a sporadic, unskilled work history crewing for a rock band, being a factory worker, a customer service representative and a pizza restaurant employee, but he has not worked anywhere since 2006 (Department Exhibit #1, pgs 36 and 50).
- (9) Claimant had an extensive substance abuse history (alcohol/marijuana/sleeping pills) but he underwent inpatient treatment in 1993 (30 days); he now denies any alcohol or illicit drug use.
- (10) Claimant's February 29, 2008 voluntary admission summary from the psychiatric unit indicates claimant presented with significant psychomotor retardation, suicidal ideation, disorganized thought processes, blunted affect and poor insight (Client Exhibit A, pgs 1 and 2).
- (11) Claimant was stabilized and discharged on March 5, 2008, with a GAF of 55 (Client Exhibit A, pg 4).
- (12) During this hospitalization, claimant admitted to noncompliance with his prescribed medicine (), missing several doses in the week prior to his decompensation episode which then required hospitalization (Department Exhibit #1, pgs 1 and 4).

(13) Additionally, this report states:

...Records indicate that 4 to 6 weeks prior to admission [claimant] was becoming increasingly withdrawn, missing his counseling appointments, not taking his medications as prescribed and dropping all his courses at college (Client Exhibit A, pg 6).

(14) As of claimant's May 13, 2008 hearing date, he reported full compliance with counseling at [REDACTED], full compliance with medications [REDACTED] and a return to college.

(15) Claimant reported he was taking classes at [REDACTED] but planned to switch to online classes during the 2008 summer semester because the in-person classes (25-30 people) caused him extreme anxiety/agoraphobia.

(16) Claimant filed his first MA application on June 15, 2007 (See also Finding of Fact #5 above).

(17) When that application was denied claimant filed an appeal because he believes his MA disability benefits should be retroactively issued to the date of his first application.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, 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

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 to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

The federal regulations are very specific regarding the type of medical evidence required from claimant to establish disability. The regulations essentially require laboratory or clinical medical reports consistent with an individual's reported symptoms, or with his/her treating doctor's statements regarding disability or the lack thereof. These regulations state in part:

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);

- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms)... 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are 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).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

...If all of the evidence we receive, including all medical opinion(s), is consistent, and there is sufficient evidence for us to decide whether you are disabled, we will make our determination or decision based on that evidence. 20 CFR 416.927(c)(1).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial gainful activity without good cause, there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

The department approved claimant eligible for MA effective June 1, 2008 because he was in compliance with his counseling and medication schedules. Prior to that time, the evidence of record shows claimant had a history of failure to follow prescribed treatment. As such, a disability allowance cannot be granted for the retroactive period claimant seeks under his first application, filed June 15, 2007.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's first MA application, filed June 15, 2007.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 23, 2009

Date Mailed: June 24, 2009

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 receipt 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.

MBM/db

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