

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: 2008-13650
Issue No: 2009, 4031
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 14, 2008
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra Wright

HEARING DECISION

The hearing in this matter was conducted by Administrative Law Judge Judith Ralston Ellison on July 14, 2008, pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. Judge Ellison was unable to write a hearing decision before leaving State employment. The undersigned Administrative Law Judge has written this hearing decision after review of all evidence in the record including the recording of the actual hearing.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA) and State Disability Assistance (SDA) programs?

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 applied for Medicaid (MA-P) and SDA benefits due to a disability on June 28, 2007.

- (2) The Medical Review Team (MRT) determined Claimant was not disabled and, therefore, not eligible for State Disability and Medicaid in June 2007.
- (3) On April 25, 2008, the State Hearing Review Team denied eligibility again on the grounds that Claimant's "impairments do not meet/equal the intent or severity of a Social Security listing and that he "retains the physical functional capacity to perform unskilled work."
- (4) Claimant was 25 years old with a birth date of [REDACTED] at the time of the hearing. Claimant was 5'9" and weighed 160 pounds. He is right hand dominant. Claimant completed high school and two years of college and studied energy technology. He has an unskilled work history. Claimant was last employed in 2004 when he worked at a [REDACTED] restaurant for three months. Prior to that he was a dishwasher at a restaurant in Wyandotte for a year. He also held positions at other restaurants since age 17.
- (5) Claimant occasionally smoked cigarettes and has been trying to quit. Two or three times a week, he drinks 24 ounces of alcohol. He previously smoked marijuana and last smoked a few days prior to the hearing.
- (6) Claimant did not have a driver's license at the time of the hearing.
- (7) Claimant complains of headaches, chronic fatigue and low energy and obsessive compulsive disorder.
- (8) The objective medical evidence reveals that in [REDACTED], Claimant was treated at the [REDACTED] for headaches, bazaar behavior, suicidal thoughts, and depression. He was admitted to [REDACTED] [REDACTED] on [REDACTED].

- (9) He was not hospitalized at all in 2008 prior to the hearing.
- (10) [REDACTED], on or about [REDACTED], diagnosed Claimant with “schizoaffective disorder versus bipolar affective disorder, mixed with underlying psychotic features; obsessive-compulsive disorder.” (Exhibit p. 23).
- (11) Since his visit to [REDACTED] and [REDACTED], he has been taking the following medications: Paxil and Seroquel for his mental condition and Midrin for migraine and tension headaches.
- (12) [REDACTED], a Michigan licensed psychologist, examined Claimant and wrote a report on [REDACTED]. [REDACTED] recommendations were:
- He would seem able to care for his basic activities of daily living. He may not be responsible to handle financial benefits, if any are awarded. He is seen as unemployable at the present time and it is hard to see how any serious employer would hire him unless and until he can be involved in intensive psychological and psychopharmacological treatments, enough to allow more stability and independence from his mother, and less bazaar and psychotic-like behavior, emotion and thinking. Also, due to the unstableness of his personality and the polymorbid nature of the diagnostic impressions, (although based on limited information) could predict decompensation risk under conditions of increased stress and pressure.
- (13) The Department received Claimant’s hearing request on January 29, 2008.

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. 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 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

Pursuant to 20 CFR 416.920 a five step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b). In this case, Claimant is not employed. He last worked at a [REDACTED] fast food restaurant in 2004.

Secondly, the individual must have an impairment that must have lasted or must be expected to last for a continuous period of at least 12 months. This is the "durational

requirement.” 20 CFR 416.909. In this case, Claimant’s impairments have lasted longer than 12 months.

The third step in the process is to assess whether the impairment or combination of impairments significantly limits an individual’s physical or mental ability to perform basic work activities. If these abilities are not significantly limited, an individual does not have a severe impairment and is therefore not disabled. 20 CFR 416.920(c). In this case, the Claimant’s combination of impairments significantly limits his mental ability to perform basic work activities. Claimant is flighty in thoughts, according to [REDACTED] who diagnosed him in 2007. According to [REDACTED], Claimant needs “intensive psychological and psychopharmacological treatments, enough to allow more stability and independence from his mother, and less bazaar and psychotic-like behavior, emotion and thinking.” [REDACTED] concluded Claimant is unemployable.

In the fourth step of the process the social security listing in appendix 1 is used. If the impairment or combination of impairments meet or is the medically equivalent of a listed impairment as set forth in appendix 1, the individual is considered disabled. If not, vocational factors are considered. 20 CFR 416.920(d). In the instant case, Claimant’s combined mental impairments are the medical equivalent of a listed impairment under Part 404, Subpart P. 12.04 Affective Disorders. Claimant has decreased energy, flight of ideas, sleep disturbance, feelings of worthlessness, difficulty concentrating due to obsessive-compulsive thoughts under section A. Under section B, Claimant’s daily activities are restricted by his “unstablensness of personality.” In addition, Claimant has difficulty with social functioning due to his “bazaar and psychotic-like behavior.”

In the fifth step an individual's residual functional capacity (RFC) is considered in determining whether disability exists. An individual's age, education, work experience and skills are use to evaluate whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e). In the present case, it was not necessary to proceed to the fifth step of the analysis because Claimant's impairment is the equivalent of a listed impairment under 20 CFR 416.920(c). Therefore, it is found that Claimant qualifies for MA based on disability and is disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant meets the definition of medically disabled under the MA program as of his application on June 28, 2007. Retroactive MA is also applicable to July 2007.

Accordingly, the Department's determination is REVERSED.

The Department is ORDERED to initiate a review of the June 28, 2007 application to determine if all other non-medical eligibility criteria are met. The Department shall inform Claimant and his representative, if any, of its determination in writing. Assuming Claimant is otherwise eligible for program benefits, the Department shall review Claimant's continued eligibility in May 2010.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/07/09

Date Mailed: 05/11/09

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.

TW/dj

cc:

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