

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: 2008-24238  
Issue No: 2009;4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 13, 2008  
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

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 October 13, 2008. Claimant was represented by [REDACTED].

ISSUE

Is claimant disabled for the purposes of the Medical Assistance and State Disability Assistance 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 Medical Assistance and State Disability Assistance on November 21, 2007. Claimant requested Medical Assistance retroactive to August 2007.
- (2) Claimant's impairments have been medically diagnosed as asthma, knee and back pain, seizures and bipolar disorder, mixed, severe without psychotic features.

(3) Claimant's physical symptoms are pain in the back and knees.

(4) Claimant has the following emotional limitations: poor long-term memory, anxiety attacks, anhedonia, episodes of anger, episodes of nervousness, poor appetite, sleep disturbances, low self esteem, suicidal thoughts, mood swings, social isolation and feelings of paranoia.

(5) Claimant's impairments will last or have lasted for a continuous period of not less than 12 months.

(6) Claimant is 24 years of age.

(7) Claimant has a 10<sup>th</sup> grade education.

(8) Claimant has employment experience as a janitor.

(9) Claimant has no significant limitations on physical activities.

(10) The department found the claimant was not disabled and denied claimant's application on June 3, 2008.

(11) Upon claimant's request for a hearing, medical evidence was submitted to the State Hearing Review Team. The State Hearing Review Team determined that claimant was not disabled for the programs.

#### 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).

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 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).

The Department of Human Services conforms to state statute in administering the State Disability Assistance program.

2000 PA 294, Sec. 604, of the statute states:

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 exempted 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:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income 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.

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

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

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).

If an individual has an impairment(s) which meets the durational requirement and is listed in Appendix 1 or is equal to a listed impairment(s), he or she is found disabled without considering age, education and work experience. 20 CFR 416.920(d).

In the present case, this Administrative Law Judge does find disability based solely on the medical evidence, In addition to claimant's seizures, knee and back pain, claimant has been diagnosed with bipolar disorder which is mixed and severe. He has a number of symptoms as cited above as a result of this condition. In a report by the psychologist dated [REDACTED]

█, the physician indicated that claimant was first psychiatrically hospitalized when he was 10. Claimant reported to the doctor that he was at a psychiatric facility for one year after he set himself on fire. He indicated to the physician that he had been psychiatrically hospitalized four times. The physician indicated that claimant has persistent suicidal thoughts. He indicated that although there was no evidence of hallucinations, that claimant “sort of hears whispers or something. The words are in Spanish. I don’t know Spanish.” Claimant has received intensive ongoing inpatient and outpatient psychological treatment from childhood until age 18 according to the physician. He has a history of intense psychological instability, repeated psychiatric hospitalizations, placement in a youth facility as a teenager and has already spent 4 ½ years in jail since he has become an adult. He has a long history of very problematic social and interpersonal functioning. He lacked insight into his own dynamics and characteristics and projected responsibility for the problems in his life to other individuals and situations. The physician indicated that claimant has exhibited evidence of severe underlying characterological disorder. In response to tests, the physician indicated that claimant showed evidence of significant internal psychological turmoil, agitation and confusion. He reported pessimism about the future, feelings of being a failure, reduced capacity to experience pleasure or happiness, feelings of being punished, self disappointment, suicidal thoughts, increased agitation and lability, reduced interest in the internal world, difficulty being able to make decisions, sleep disturbance, boredom and confusion. The physician noted that claimant had low average capability for abstract reading and exhibited borderline capabilities for social judgment and comprehension. At the hearing, claimant further testified that he has daily auditory hallucinations and that he frequently gets into fights. He states that he has suicidal thoughts three times a month

and has attempted suicide once in [REDACTED] by slitting his wrists and once in [REDACTED] by taking pills. Based upon claimant's testimony and the medical evidence presented, it appears that claimant's impairment does meet or is the medical equivalent of a listed impairment as set forth in Appendix 1, Section 12.04. 20 CFR 416.926. Therefore, claimant is disabled for the purposes of the Medical Assistance and State Disability Assistance programs.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is medically disabled under the Medical Assistance and State Disability Assistance programs as of August 1, 2007. Therefore, the department is ORDERED to initiate a review of the application of November 21, 2007, if not done previously, to determine claimant's non-medical eligibility. The department shall inform the claimant of the determination in writing. The case shall be reviewed in February 2010.

/s/ \_\_\_\_\_  
Rhonda P. Craig  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: February 3, 2009

Date Mailed: February 6, 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.

2008-24238/RPC

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.

RPC/vmc

cc:

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