

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: 2009-13059  
Issue No: 2009  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 22, 2008  
Montmorency County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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, an in-person hearing was held on April 22, 2008.

The D&O was delayed at the claimant's request for a second SHRT review of additional medical reports presented at the hearing (Claimant Exhibit A). After SHRT's second nondisability, the ALJ made the final decision below.

ISSUE

Was mental disability established?

FINDINGS OF FACT

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

(1) Negative action: Medicaid retroactive to December 2007 application on March 31, 2008 was denied on October 16, 2008 per PEM 260.

(2) Vocational factors: age 31, 8<sup>th</sup> grade education, and past semi-skilled welder's helper and skilled cashier for [REDACTED] store.

(3) Disabling symptoms/complaints: unable to perform basic mental work activities as defined below because of forgetfulness and does not like to be around people.

(4) Substantial gainful work: not since April 2007.

(5) Medical reports of exams:

**[Mental Impairment]**

- (a) [REDACTED] report states the claimant is recovering from a facial fracture and a closed head injury and is not able to work at this time (Claimant Exhibit A, page 1).
- (b) [REDACTED] report states a secondary diagnosis of ETOH intoxication and depression (Medical Packet, page 279).
- (c) [REDACTED] report states a GAF of 45 at this time with a high of 65 (Medical Packet, page 282).
- (d) [REDACTED] report states the same as the below on [REDACTED] report, except for mood intense and pensive with a GAF of 45 (Medical Packet, pages 295 and 296).
- (e) [REDACTED] report states the same as above on [REDACTED] report, except for a GAF of 46 (Medical Packet, page 299).
- (f) [REDACTED] report states a diagnosis of major depressive disorder, recurrent, moderate, history of polysubstance abuse, and a GAF of 47; that he was alert, fully oriented, cooperative and capable of fluent speech; that mood was mildly subdued but otherwise pleasant; that affect was pleasant; and that he had no cognitive deficits (Medical Packet, pages 300 and 301).
- (g) [REDACTED] report states the claimant is borderline intellectual (Medical Packet, page 317).
- (h) [REDACTED] report states claimant may return to work with no restrictions (Claimant Exhibit A, page 2).

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).

Facts above are undisputed.

"Disability" is:

...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.

**Non-severe impairment(s).** An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

**Basic work activities.** When we talk about basic work activities, we mean 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).

**Sedentary work.** Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

**The burden of proof is on the claimant** to establish by a preponderance of the medical evidence that he has established Medicaid disability, as defined above. PEM 260.

A set order is followed to determine whether a person is disabled. It is a five-step evaluation procedure. If it is determined that a person is disabled or not disabled at any point in the review, there is no further review. 20 CFR 416.920(a).

**Step #1**

Current work activity.

Because the claimant was not working on date of application or currently, he is not disqualified from receipt of disability benefits under Step 1, and the sequential evaluation is required to continue to Step 2. 20 CFR 416.920(b).

**Step #2**

Impairment severity/duration.

If a person does not have any impairment(s) which significantly limits his mental ability to do basic work activities, as defined above, which has lasted or can be expected to last for a continuous period of 12 months, he is not disabled. Your age, education, and work experience are not considered. 20 CFR 416.920(a) and (b).

The above medicals do establish the claimant was significantly limited in performing basic mental work activities, as defined above, for duration of 12 consecutive months. GAF score of less than 50 during this period of time show the claimant's severe mental impairment.

Persons with a GAF score less than 50 have a serious impairment in unable to keep a job. Diagnostic and Statistical Manual of Disorders (4<sup>th</sup> Edition, Revised). Therefore, the claimant has established that he is disabled under this step.

Therefore, this ALJ is persuaded that disability has been established by the preponderance of the medical evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that mental disability was medically established.

Medicaid denial is REVERSED with approval effective December of 2007 until December 3, 2008.

/s/ \_\_\_\_\_  
William A. Sundquist  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: May 21, 2009

Date Mailed: May 21, 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.

2009-13059/was

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.

WAS/tg

cc:

