

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No: 2009-23673

Issue No: 2009-4031

Case No:

Load No:

Hearing Date:

August 10, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on August 10, 2019. Claimant appeared and testified.

ISSUE

Whether the department properly determined the claimant is not "disabled" for purposes of the Medical Assistance (MA) program and the State Disability Assistance (SDA) program?

FINDINGS OF FACT

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

1. On March 31, 2008, the Claimant representative applied for MA-P, SDA and retro MA-P.
2. On July 23, 2008, MRT denied the Claimant's request.

3. On October 28, 2008, the Claimant submitted, to the Department, a request for hearing.
4. The State Hearing and Review Team (SHRT) denied request.
5. The Claimant is 50 years old.
6. The Claimant completed education through high school in special education.
7. The Claimant has employment experience in a pickle factory.
8. The Claimant's limitations have lasted for 12 months or more.
9. The Claimant suffers from right arm fracture; left elbow fracture; unable to use arms for about year; had to have two surgeries on his arms; colostomy due to intestinal ruptured which was reversed about 6 months ago; depression and bi-polar; mood swings, extreme; struggles with anger issues; struggles with following directions; distracted at times; gets lost and confused; sister helps to take care of his daily needs (cooking and cleaning) - reminds him to do his hygiene; sister takes care of grocery shopping; began looking for a job six months ago.
10. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
11. The Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.
12. Has a GAF of 50.

13. Exam completed on [REDACTED] indicated the Claimant has a diagnosis of severe to moderate adjustment disorder and low average intellectual functioning capacity.
14. Consultative exam completed on [REDACTED] indicated the claimant was markedly limited in 11 out of 20 categories of the mental residual functional capacity assessment.

#### 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 1 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.

Medical evidence 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 the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

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).

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 Claimant testified he fell off ladder at his home cleaning gutters - arms still hurt, weakness in right arm, left elbow can't flex or move it. He testified he can only lift about a pound with left and right arm; he can now lift 20lbs, but was not able to lift anything for a year or more on the right arm. He testified he will sleep several days in a row, has problems eating, avoids people, stays in basement, embarrassed about self. He states he has ongoing chest pain and shortness of breath. The Claimant testified, and is supported by the medical submitted, that he struggles with extreme mood swings, getting confused, and lack of interest in activities. Consultative examiner indicated the Claimant has not improved despite extensive counseling and pharmacotherapy. This therapist indicated the prognosis as poor.

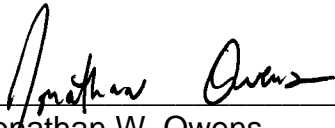
In this case, this Administrative Law Judge finds the Claimant may be considered presently disabled at the third step. The Claimant appears to meet listing 12.02 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Claimant's testimony and the medical documentation support the finding that the Claimant meets the requirements of a listing.

Therefore, the Claimant is found to be disabled.

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 as of December 2007.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated March 31, 2008, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for May 2011.

  
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Jonathan W. Owens  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 04/21/10

Date Mailed: 04/21/10

**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.

JWO/dj

cc:

