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.: 2009-7462
Issue No.: 2009, 4031
Case No.: [redacted]
Load No.: [redacted]
Hearing Date:
February 25, 2009
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in [redacted] on February 25, 2009. The Claimant appeared and testified, along with her [redacted]. The Claimant was represented by [redacted] [redacted] [redacted] appeared on behalf of the Department.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of Medical Assistance ("MA-P"), Retro MA-P, and State Disability Assistance ("SDA") programs.

FINDINGS OF FACT

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

1. The Claimant submitted a public assistance application seeking MA-P, Retro MA-P from August 2006, and SDA benefits on November 1, 2006.

2. On November 13, 2006, December 14, 2007, March 31, 2008, and July 9, 2008, the Medical Review Team ("MRT") deferred the disability determination to allow for the submission of additional records and in order for the Claimant to attend a psychiatric evaluation. (Exhibit 1, pp. 6, 7, 15, 16, 50, 51)

3. On August 19, 2008, the Claimant attended a psychiatric consultative examination at the [redacted]. (Exhibit 1, pp. 3 – 5)

4. On September 12, 2008, the MRT determined the Claimant was not disabled finding the Claimant's impairment(s) did not prevent employment of 90 days or more for SDA purposes, and finding the Claimant capable of performing past relevant work and other work for MA-P purposes. (Exhibit 1, pp. 1, 2)

5. On September 15, 2008, the Department sent the Claimant an eligibility notice informing the Claimant she was not eligible for MA-P and SDA benefits. (Exhibit 2)

6. On October 10, 2008, the Department received the Claimant's Request for Hearing protesting the determination that the Claimant was not disabled.

7. On January 13, 2009, the State Hearing Review Team ("SHRT") determined the Claimant not disabled finding her capable of performing other work. (Exhibit 3, pp. 1, 2)

8. The Claimant's alleged physical disabling impairments are due to chronic back pain, degenerative disc disease, pancreatitis, GERD, irritable bowel syndrome, diverticulosis, hiatal hernia, endometriosis, excessive mentrual bleeding,

sinusitus, asthma, COPD, sleep disorder, recurrent brain tumor, migraines and seizures.

9. The Claimant's alleged mental disabling impairments are due to post traumatic stress anxiety, depression, and bipolar disorder.

10. At the time of hearing, the Claimant was 43 years old with a [redacted] birth date; was 6' and weighed 175 pounds.

11. The Claimant completed through the 11th grade and has a work history as a salesclerk, cashier, and general laborer.

12. The Claimant's impairment(s) has lasted, or is expected to last, continuously for a period of at least 12 months.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services ("DHS"), formally known as the Family Independence Agency, 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").

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) 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-relate activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CRF 413.913 An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a) Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.929(a)

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3) The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2)

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a) (1) The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps. 20 CFR 416.920(a)(4) If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4) If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945 Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a) (1) An individual's residual functional capacity assessment is evaluated at both steps four and five. 20 CFR 416.920(a) (4) In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv)

In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a) An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a) As outlined above, the first step looks at the individual's current work activity. An individual is not disabled regardless of the medical condition, age, education, and work experience, if the individual is working and the work is a substantial, gainful activity. 20 CFR 416.920(a)(4)(i) The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c) (3) (5) (6)

As previously stated, the first step looks at the individual's current work activity. An individual is not disabled regardless of the medical condition, age, education, and work experience, if the individual is working and the work is a substantial, gainful activity. 20 CFR

416.920(a) (4) (i) In the record presented, the Claimant is not involved in substantial gainful activity and last worked in 1999. The Claimant is not disqualified from receipt of disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a) (4) (ii); 20 CFR 916.920(b) An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c) Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b) Examples 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.

Id. The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen,* 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services,* 773 F2d 85, 90 n.1 (CA 6, 1985) An impairment qualifies as severe only if, regardless of a

claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services,* 774 F2d 685, 692 (CA 6, 1985)

In the present case, the Claimant alleges disability based on physical disabling impairments due to chronic back pain, degenerative disc disease, pancreatitis, GERD, irritable bowel syndrome, diverculitis of the colon, hiatal hernia, endometriosis, excessive mentrual bleeding, sinusitus, asthma, COPD, sleep disorder, recurrent pituitary adenoma, migraines and seizures. Mental impairments asserted are post-traumatic stress anxiety, depression, and bipolar disorder.

In support of this claim, the Claimant submitted several older medical records which document the Claimant's ongoing depression, post traumatic stress disorder (sexual abuse as a child and shot by her spouse), bipolar disorder II, chronic obstructive pulmonary disease, asthma, hypertension, chest pain, The Claimant regularly takes [redacted], and [redacted] for her psychological impairments.

The Claimant was hospitalized at [redacted] on August 20 – 25, 2006 due to complaints of nausea, vomiting, and abdominal pain. An ultrasound documented a possible mass in the pancreas. An esophagogastroduodenoscopy was performed and revealed an exacerbation of her COPD which was treated with [redacted] and [redacted] An EGD showed gastritis. The discharge diagnoses were intractable nausea and emesis, acute abdominal pain, bipolar disease, post-traumatic stress disorder, history of diverticulosis, obstipation, status post pituitary surgery, and gastritis.

On December 15, 2006, a Mental Residual Function Capacity Assessment was submitted from [redacted] The Claimant's ability to maintain attention, concentrate, and

work with or in the proximity of others without being distracted was found markedly limited as well as her ability to travel in unfamiliar places, use public transportation, and set realistic goals.

On December 21, 2006, the Claimant was admitted to [redacted] after complaints of shortness of breath, cough, chest tightness, and back pain. The Claimant was admitted for exacerbation of COPD, sinusitis, back pain, and psychiatric disorder, amongst other medical concerns. During this hospitalization, the Claimant was found not to require inpatient psychiatric care but was recommended to continue outpatient management. The discharge summary was not submitted however the Claimant was given breathing treatments and IV antibiotics.

On December 27, 2007, an Internist submitted a Medical Examination Report on behalf of the Claimant. The Claimant's condition was noted as improving but was limited to lift/carry less than 10 pounds; stand/walk less than 2 hours in an 8-hour workday; but able to perform repetitive actions with her hands/arms.

On February 16, 2007, the Claimant attended a Department ordered psychiatric and internist examinations at HCC Evaluations, LLC. The Claimant was diagnosed with bipolar disorder, mixed type with psychotic features and a GAF was of 50. The prognosis was guarded. The Claimant's physical examination documented the Claimant with severe asthma, acid reflux disease/hiatal hernia, diverticulosis, neck pain, degenerative disc disease, and back pain. A Pulmonary Function Study was also performed however the submitted report lacks clarity.

On May 2, 2008, the Claimant was evaluated by an Internist at the [redacted] [redacted]. The cardiovascular examination documented a few expiratory ronchi over both lung fields but otherwise normal. The Claimant's range of motion was restricted to about 60% of normal range. The diagnoses were severe anxiety and psychiatric problems, asthma with

bronchitis and COPD, chronic sinusitis and colds with pulmonary insufficiency, chronic cervical and lumbar spine, gastritis, GERD, and IBS. The report also recommended, in light of the Claimant's numerous medical problems, psychiatric, neurological, and physical medicine specialists evaluations noting the need for follow-up, medications, and tests.

On August 19, 2008, the Claimant attended a Department ordered psychiatric consultative examination at the [redacted]. The Claimant was found with bipolar disorder with a GAF of 50.

On October 1, 2008, a Medical Examination Report was submitted on behalf of the Claimant. The diagnoses were listed, in part, as pituitary tumor, bipolar, IBS, migraine, and chronic pain. The Claimant's physical limitations were listed as being able to occasionally lift/carry up to 10 pounds; stand and/or walk less than 2 hours of an 8-hour work day, with limitations in both hands/arms for reaching/pushing/pulling. Due to the Claimant's mental restrictions, she was found limited in the area of social interaction, comprehension, memory, concentration, and with the ability follow simple directions. Several medications were noted to include, [redacted], [redacted].

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the Claimant has presented objective medical evidence establishing that she does have physical and mental limitations on her ability to perform basic work activities. Accordingly, the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The Claimant asserts physical disabling impairment(s) due in part to chronic back and neck pain with degenerative disc disease. Listing 1.00 defines musculoskeletal system impairments. Disorders of the musculoskeletal system may result from hereditary, congenital, or acquired pathologic processes. 1.00A Impairments may result from infectious, inflammatory, or degenerative processes, traumatic or developmental events, or neoplastic, vascular, or toxic/metabolic diseases. 1.00A Regardless of the cause(s) of a musculoskeletal impairment, functional loss for purposes of these listings is defined as the inability to ambulate effectively on a sustained basis for any reason, including pain associated with the underlying musculoskeletal impairment, or the inability to perform fine and gross movements effectively on a sustained basis for any reason, including pain associated with the underlying musculoskeletal impairment. Inability to ambulate effectively means an extreme limitation of the ability to walk; i.e., an impairment(s) that interferes very seriously with the individual's ability to independently initiate, sustain, or complete activities. 1.00B2b (1) Ineffective ambulation is defined generally as having insufficient lower extremity function to permit independent ambulation without the use of a hand-held assistive device(s) that limits the functioning of both upper extremities. (Listing 1.05C is an exception to this general definition because the individual has the use of only one upper extremity due to amputation of a hand.) *Id.* To ambulate effectively, individuals must be capable of sustaining a reasonable walking pace over a sufficient distance to be able to carry out activities of daily living. 1.00B2b (2) They must have the ability to travel without companion assistance to and from a place of employment or school. . . . *Id.* When an individual's impairment involves a lower extremity uses a hand-held

assistive device, such as a cane, crutch or walker, the medical basis for use of the device should be documented. 1.00J4 The requirement to use a hand-held assistive device may also impact an individual's functional capacity by virtue of the fact that one or both upper extremities are not available for such activities as lifting, carrying, pushing, and pulling. *Id.*

Categories of Musculoskeletal include:

1.02 Major dysfunction of a joint(s) due to any cause: Characterized by gross anatomical deformity (e.g. subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:

A. Involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively as defined in 1.00B2b; or

B. Involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, wrist, hand), resulting in inability to perform fine and gross movements effectively a defined in 1.00B2c

* * *

1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, and vertebral fracture), resulting in compromise of a nerve root (including the cauda equine) or spinal cord. With:

A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine); or

B. Spinal arachnoiditis, confirmed by an operative note or pathology report of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every 2 hours; or

C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and

weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b. (See above definition)

In this case, the objective medical findings document chronic back and neck pain and degenerative disc disease however these records are insufficient to support a finding of disabled within this listing, specifically 1.02 and/or 1.04 therefore the Claimant is not disabled under this Listing.

The Claimant has alleged physical disabling impairments due in part to shortness of breath, sinusitis, asthma, and chronic obstructive pulmonary disease. Listing 3.00 defines respiratory system impairments. Respiratory disorders, along with any associated impairment(s), must be established by medical evidence sufficient enough in detail to evaluate the severity of the impairment. 3.00A Evidence must be provided in sufficient detail to permit an independent reviewer to evaluate the severity of the impairment. *Id.* A major criteria for determining the level of respiratory impairments that are episodic in nature, is the frequency and intensity of episodes that occur despite prescribed treatment. 3.00C Attacks of asthma, episodes of bronchitis or pneumonia or hemoptysis (more than blood-streaked sputum), or respiratory failure as referred to in paragraph B of 3.03, 3.04, and 3.07, are defined as prolonged symptomatic episodes lasting one or more days and requiring intensive treatment, such as intravenous bronchodilator or antibiotic administration or prolonged inhalational bronchodilator therapy in a hospital, emergency room or equivalent setting. 3.00C Hospital admissions are defined as inpatient hospitalizations for longer than 24 hours. *Id.* Medical evidence must include information documenting adherence to a prescribed regimen of treatment as well as a description of physical signs. *Id.* For asthma, medical evidence should include spirometric results obtained between attacks that document the presence of baseline airflow obstruction. *Id.*

Chronic asthmatic bronchitis (Listing 3.03A) is evaluated under Listing 3.02. Chronic obstructive pulmonary disease, due to any cause, meets Listing 3.02 if medical evidence establishes that the Claimant's forced expiratory volume (in one second) is equal to or less than 1.35 (based on the Claimant's 5' 7'' height). Attacks of asthma and/or episodes of bronchitis as referred to in 3.03 and 3.07, in spite of prescribed treatment, that occur at least once every 2 months or at least six times a year are considered. Each in-patient hospitalization for longer than 24 hours counts as two attacks/episodes and an evaluation of at least 12 consecutive months must be used to determine the frequency of attacks/episodes. 3.03B; 3.07B For asthma, the medical evidence *should* include spirometric results obtained between attacks that document the presence of baseline airflow obstruction. 3.00C

In this case, the Claimant's objective medical records document treatment/hospitalizations for asthma related conditions in August and December 2006. Each hospitalization required IV antibiotics and breathing treatments however the records do not document compliance with prescribed treatment thus although the records establish the Claimant's diagnoses of asthma and COPD, the record is insufficient to find that the Claimant's impairment(s) meet the severity requirement of a listing within 3.00. Accordingly, the Claimant is not disabled under this Listing.

The Claimant also alleged physical disabling impairments based upon hypertension and chest pain. Listing 4.00 defines cardiovascular impairment in part, as follows:

> . . . any disorder that affects the proper functioning of the heart or the circulatory system (that is, arteries, veins, capillaries, and the lymphatic drainage). The disorder can be congenital or acquired. Cardiovascular impairment results from one or more of four consequences of heart disease:
> (i) Chronic heart failure or ventricular dysfunction.
> (ii) Discomfort or pain due to myocardial ischemia, with or without necrosis of heart muscle.

(iii) Syncope, or near syncope, due to inadequate cerebral perfusion from any cardiac cause, such as obstruction of flow or disturbance in rhythm or conduction resulting in inadequate cardiac output.

(iv) Central cyanosis due to right-to-left shunt, reduced oxygen concentration in the arterial blood, or pulmonary vascular disease.

An uncontrolled impairment means one that does not adequately respond to the standard prescribed medical treatment. 4.00A3f In a situation where an individual has not received ongoing treatment or have an ongoing relationship with the medical community despite the existence of a severe impairment, the disability evaluation is based on the current objective medical evidence. 4.00B3a If an individual does not receive treatment, an impairment that meets the criteria of a listing cannot be established. *Id.* Hypertension (high blood pressure) generally causes disability through its effect on other body systems and is evaluated by reference to specific body system(s) affected (heart, brain, kidneys, or eyes). 4.00H1 Hypertension, to include malignant hypertension, is not a listed impairment under 4.00 thus the effect on the Claimant's other body systems were evaluated by reference to specific body parts. Listing 4.02 discusses chronic heart failure. To meet the required level of severity while on a regimen of prescribed treatment the following must be satisfied:

A. Medically documented presence of one of the following:

1. Systolic failure (see 4.00D1a(i)), with left ventricular end diastolic dimensions greater than 6.0 cm or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure); or

2. Diastolic failure (see 4.00D1a(ii)), with left ventricular posterior wall plus septal thickness totaling 2.5 cm or greater on imaging, with an enlarged left atrium greater than or equal to 4.5 cm, with normal or elevated ejection fraction during a period of stability (not during an episode of acute heart failure);

AND

B. Resulting in one of the following:

1. Persistent symptoms of heart failure which very seriously limit the ability to independently initiate, sustain, or complete activities of daily living in an individual for whom an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that the performance of an exercise test would present a significant risk to the individual; or

2. Three or more separate episodes of acute congestive heart failure within a consecutive 12-month period (see 4.00A3e), with evidence of fluid retention (see 4.00D2b (ii)) from clinical and imaging assessments at the time of the episodes, requiring acute extended physician intervention such as hospitalization or emergency room treatment for 12 hours or more, separated by periods of stabilization (see 4.00D4c); or

3. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less due to:

    a. Dyspnea, fatigue, palpitations, or chest discomfort; or

    b. Three or more consecutive premature ventricular contractions (ventricular tachycardia), or increasing frequency of ventricular ectopy with at least 6 premature ventricular contractions per minute; or

    c. Decrease of 10 mm Hg or more in systolic pressure below the baseline systolic blood pressure or the preceding systolic pressure measured during exercise (see 4.00D4d) due to left ventricular dysfunction, despite an increase in workload; or

    d. Signs attributable to inadequate cerebral perfusion, such as ataxic gait or mental confusion.

In the record presented, the Claimant was diagnosed with hypertension with complaints of chest pain. The record is devoid of any evidence of end organ damage, thus although these diagnoses are medically documented, this same documentation does not meet the severity requirements of a listed impairment within 4.00. Accordingly, the Claimant can not be found disabled under this Listing.

Listing 5.00 defines digestive system impairments. Disorders of the digestive system include gastrointestinal hemorrhage, hepatic (liver) dysfunction, inflammatory bowel disease, short bowel syndrome, and malnutrition. 5.00A Medical documentation necessary to meet the

listing must record the severity and duration of the impairment. 5.00B The severity and duration of the impairment is considered within the context of the prescribed treatment. 5.00C1

In this case, the Claimant sought treatment for nausea, vomiting, abdominal pain, GERD, and IBS however; these symptoms were, during the relevant time period, secondary to the Claimant's complaints of shortness of breath and chronic pain. Accordingly, the medical records do not support a finding of disabled under this Listing.

The Claimant also alleges physical disabling impairment(s) due to excessive menstrual bleeding, endometriosis, sleep disorder, recurrent brain tumor, migraines and seizures.. Listing 7.00 defines hematological disorders. Listing 11.00 defines neurological disorders to include seizures. In this case, medical evidence presented shows that prior to the period at issue, a tumor was surgically removed near the Claimant's pituitary. The Claimant testified that the tumor has returned however this testimony was not supported through objective medical findings, nor were the Claimant's seizures. Ultimately, the medical documentation was insufficient to support a finding of disability under Listings 7.00 and/or 11.00 therefore the Claimant cannot be found disabled under these listings.

Listing 12.00 encompasses adult mental disorders. The evaluation of disability on the basis of mental disorders requires documentation of a medically determinable impairment(s) and consideration of the degree in which the impairment limits the individual's ability to work, and whether these limitations have lasted or are expected to last for a continuous period of at least 12 months. 12.00A The existence of a medically determinable impairment(s) of the required duration must be established through medical evidence consisting of symptoms, signs, and laboratory findings, to include psychological test findings. 12.00B The evaluation of disability on the basis of a mental disorder requires sufficient evidence to (1) establish the presence of a

medically determinable mental impairment(s), (2) assess the degree of functional limitation the impairment(s) imposes, and (3) project the probable duration of the impairment(s). 12.00D The evaluation of disability on the basis of mental disorders requires documentation of a medically determinable impairment(s) and consideration of the degree in which the impairment limits the individual's ability to work consideration, and whether these limitations have lasted or are expected to last for a continuous period of at least 12 months. 12.00A

Schizophrenic, paranoid, and other psychotic disorders are characterized by the onset of psychotic features with deterioration from a previous level of functioning. 12.03 The required level of severity for these disorders are met when the requirements in both A and B are satisfied, or when the requirements of C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one or more of the following:

1. Delusions or hallucinations; or

2. Catatonic or other grossly disorganized behavior; or;

3. Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:

    a. Blunt Affect; or

    b. Flat Affect; or

    c. Inappropriate affect;

Or

4. Emotional withdrawal and/or isolation;

AND

B. Resulting in a least two of the following:

1. Marked restriction of activities of dialing living; or

2. Marked difficulties in maintaining social functioning; or

3. Marked difficulties in maintaining concentration, persistence, or pace; or

4. Repeated episodes of decompensation, each of extended durations

OR

C. Medically documented history of a chronic schizophrenic, paranoid, or other psychotic disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or

2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or changed in the environment would be predicted to cause the individual to decompensate; or

3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Listing 12.04 defines affective disorders as being characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Generally, affective disorders involve either depression or elation. The required level of severity for these disorders are met when the requirements of both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:

a. Anhedonia or pervasive loss of interest in almost all activities; or

b. Appetite disturbance with change in weight; or

c. Sleep disturbance; or

d. Psychomotor agitation or retardation; or

e. Decreased energy; or

f. Feelings of guilt or worthlessness; or

g. Difficulty concentrating or thinking; or

h. Thoughts of suicide; or

i. Hallucinations, delusions, or paranoid thinking; or

2. Manic syndrome characterized by at least three of the following:

a. Hyperactivity; or

b. Pressure of speech; or

c. Flight of ideas; or

d. Inflated self-esteem; or

e. Decreased need for sleep; or

f. Easy distractibility; or

g. Involvement in activities that have a high probability of painful consequences which are not recognized; or

h. Hallucinations, delusions, or paranoid thinking; or

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes)

AND

B. Resulting in at least two of the following:

1. Marked restriction on activities of daily living; or

2. Marked difficulties in maintaining social functioning; or

3. Marked difficulties in maintaining concentration, persistence, or pace; or

4. Repeated episodes of decompensation, each of extended duration;

OR

C. Medically documented history of chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or

2. A residual disease process that has resulted in such marginal adjustment that even minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or

3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

The Claimant's medical records consistently document the Claimant's bipolar disorder with psychotic tendencies. Each Mental Residual Function Capacity Assessment indicates the

Claimant's ability is markedly limited in several areas with a prognosis of "guarded" and suicide attempts noted. Based upon the submitted medical documentation, the Claimant's mental impairment(s) have lasted continuously for more than a 12 month period and meet, or are the medical equaivalent of, Listing 12.04. Accordingly, the Claimant is found disabled at Step 3 therefore subsequent steps in the sequenti al evaluation process are not necessary.

The State Disability Assistance ("SDA") program, which provides financial assistance for disabled persons, was established by 2004 PA 344. DHS administers the SDA program purusant to MCL 400.10 *et seq.* and Michigan Administrative Code ("MAC R") 400.3151 – 400.3180. Department policies are found in PAM, PEM, and PRM. A person is considered disabled for SDA purposes if the person has a physical or mental impariment which meets federal SSI disability standards for at least ninety days. Receipt of SSI or RSDI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program.

In this case, because the Claimant was found disabled for the purposes of the MA program, the Claimant is disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds the Claimant disabled for purposes of the Medical Assistance program and the State Disability Assistance program.

It is ORDERED:

1. The Department's determination is REVERSED.

2. The Department shall initiate review of the November 1, 2006 application to determine if all other non-medical criteria are met and inform the Claimant and her authorized representative of the determination.

3. The Department shall supplement the Claimant any lost benefits she was entitled to receive if otherwise eligible and qualified in accordance with department policy.

4. The Department shall review the Claimant's continued eligibility in accordance department policy in April of 2010.

/s/
Colleen M. Mamelka
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed: ______

Date Mailed: ______

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 the Circuit 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 recip date of the rehearing decision.

CM/jlg

cc: