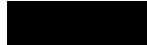


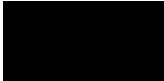

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No: 2009-26267  
Issue No: 4031  
Case No:   
Load No:   
Hearing Date:  
August 19, 2009  
Tuscola 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 19, 2009. Claimant appeared and testified.

ISSUE

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

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 April 21, 2009, the Claimant representative applied for SDA.
2. On May 4, 2009, MRT denied the Claimant's request for SDA.
3. On May 8, 2009, the Claimant submitted to the Department a request for hearing.
4. The Claimant is 28 years old.

5. The Claimant completed schooling up through 12<sup>th</sup> grade.
6. The Claimant suffers seizures, anxiety, depression, phobias, asthma, and ADHD.
7. GAF of 45.
8. 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.
9. The Claimant's limitations have lasted for 90 days or more.

#### CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 1939 PA 280, as amended. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.1 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).

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment 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. Other specific financial and non-financial eligibility criteria are found in PEM 261.

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process for evaluating physical

or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following steps:

The first step to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant is not currently working nor in the past year has the Claimant been employed. Therefore, the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is whether the severity of the impairment. In order to qualify the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant mental limitations upon Claimant's ability to perform basic work activities such as 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. Medical evidence has clearly established that the Claimant

has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

The medical records submitted for consideration demonstrate the Claimant has a severe generalized social phobia, severe generalized anxiety disorder, asthma, seizure disorder. The Claimant struggles with even leaving his home. The Claimant's condition results in shaking and passing out. Has a fear of people around him disappearing. The Claimant can't be left alone. The Claimant's GAF is 45 according to his treating psychiatrist. The Claimant's psychiatrist found him limited in all areas of the mental residual functional capacity assessment, which indicates the Claimant's odds of successful employment unlikely. The Claimant has ongoing mental health issues for many years. The Claimant is still struggling according to the records submitted with inappropriate thoughts and behavior.

In the third step of the analysis, 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. This Administrative Law Judge finds that the Claimant's medical record does support a finding that the Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Specifically listing 12.03.

Federal regulation at 20 CFR 416.920a(c)(3) provides that when a person has a severe mental impairment(s), but the impairment(s) does not meet or equal a listing, a residual functional capacity assessment must be done. Residual functional capacity means simply: "what can you still do despite your limitations?" 20 CFR 416.945


In the present case, the Claimant has a history of severe generalized social phobia and severe generalized anxiety disorder. The treating physician indicated the Claimant was significantly impacted on all areas of his residual assessment. The Claimant's inability to be left

alone and his inability to leave his home on a regular basis significantly impairs his ability to maintain any employment. His current GAF score is a 45. Based upon the record and this Administrative Law Judge's observations of Claimant at the hearing, this Administrative Law Judge finds that, although Claimant has the physical and intellectual capacity for work, his emotional functioning precludes work activities on a regular and continuing basis. Further this Administrative Law Judge finds that Claimant's impairment(s) has lasted over 3 months and is expected to continue to last for the near future. Accordingly, this Administrative Law Judge finds that Claimant is presently disabled for purposes of SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is disabled as of April 21, 2009.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated April 21, 2009, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. This case shall be reviewed in April 2010.

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

Date Signed: 12/16/09

Date Mailed: 12/16/09

**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

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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:

