# STATE OF MICHIGAN STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

Reg. No: 2010-39095 Issue No: 2009, 4031 Case No: Load No: Hearing Date: July 14, 2010

Gladwin County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

## **HEARING DECISION**

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400. 9 and MCL 400.37 upon claimant's request for a hearing. After due notic e, a telephone hearing was held on July 14, 2010. Claimant personally appeared and testified. Claimant was represented at the hearing by

### ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and 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 material fact:

- On April 23, 2010, claimant filed an application for Medical Assistance, State Disability Assistance and Retroactive Medical Assistance benefits alleging disability.
- (2) On May 24, 2010, the Medical Review Team denied claimant's application stating that claimant's impairment's are non-exertional.
- (3) On May 27, 2010, the department case worker sent claimant notice that her application was denied.
- (4) On June 8, 2010, claimant filed a request for a hearing to contest the department's negative action.

- (5) On June 22, 2010, the State Hearing Review Team again denied claimant's applic ation st ating that it had insufficient evidence and requested a psychiatric evaluation.
- (6) The hearing was held on July 14, 2010. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) Additional medical information wa s submitted and sent to the State Hearing Review Team on August 24, 2010.
- (8) On August 25, 2010, the State H earing Review Team approved claimant for Medical Assista nce, State Dis ability Assistance e, and retroactive Medical Assistance benefits based upon a Social Security approval. Medical Assistance was grant ed as of April 2010, retroactive Medical Assistance was granted beginning January 2010, and St ate Disability Assistance benefits were approved per PEM 261. The State Hearing Review Team stated at the medical review of September 2011, request medical records from the last 12 months.
- (9) Claimant is a 28-year-old woman whose birth date is
  Claimant is 5'5" tall and weighs 188 pounds. Claimant is a high school
  graduate, attended 2 semesters of college. Claimant is able to r ead and
  write and does have basic math skills.
- (10) Claimant last worked as a home heal th care aide for her grandmother.

  Claimant has also worked mopping and sweeping, and at as a cook.
- (11) Claimant alleges as disabling impairments: bi -polar disorder, anxiety problems, ADHD, anger management problems, depression, post traumatic stress disorder.

# **CONCLUSIONS OF LAW**

The State Disability A ssistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Service s (DHS or department) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department polic ies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by Title 42 of the C ode 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 substant ial 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 deter mine disability. Current work activity, severity of impairments, residual functional capacity, past wor k, 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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experienc e. 20 CFR 416.920(c).

If the impairment or combination of impair ments do not signific antly limit physica I or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

- ... Medical reports should include -
- (1) Medical history.
- Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of di sease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the

ability to perform basic work activities with out signific ant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as wa lking, 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).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2 ) the probable duration of the impairment ; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other a cceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an indiv idual can do des pite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

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

The Administrative Law Judge is responsible for making the determination or decis ion about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other ev idence that support a medical source's statement of disability.... 20 CFR 416.927(e).

A statement by a medical source finding that an individual is "doisabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

When determining disability, the federal regula tions require that s everal considerations be analyzed in s equential order. If disability can be ruled out at any step, analys is of the next step is <u>not</u> required. These steps are:

- Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
- 2. Does the client have a severe impairment that has lasted or is expected to last 12 months or mo re or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
- 3. Does the impairment appear on a special listing of impairments or are the clie nt's symptoms, signs, and laboratory findings at least equiv alent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
- 4. Can the client do the forme r work that he/she performed within the last 15 years? If yes, t he client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
- 5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, A ppendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

Because of the Social Security Administration determination it is not necessary for this Administrative Law J udge to discuss the issue of disability. PEM, Item 260; the department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done, If claimant is eligible for RSDI benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the claimant meets the definition of medically disabled under the Medical Assistance program and the State Disability Assistance program as of the April 23, 2010, applied ation date and the January 2010 retroactive Medical Assistance application.

Accordingly, the department's decision is REVERSED. The depar tment is ORDERED to initiate a review of t he Apr il 23, 2010, Medical Assistance e, retroactive Medical Assistance and State Disability A ssistance application if it has not already done so to

determine if all other non-medi cal e ligibility criteria a re met. The dep artment shall inform the claimant of a deter mination in writing. If claim ant is elig ible for SSI, the department shall open an on-goi ng Medical Assistance case for the claimant effective the month of SSI entitlement.

The department is ORDERED to conduct a medical review in September 2001, to see if claimant still retains h er eligibility for Social Security Administratio n Disability benefits. At medical review of September 2011, the department is to request medical records from the last 12 months.

Landis

Y. Lain

Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 31, 2010

Date Mailed: September 2, 2010

**NOTICE**: Administrative Hearings may or der 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 Hear ings will not orde rarehearing 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LYL/alc

