

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: 2010-5545

Issue No: 2009-4031

Case No:



Load No:

Hearing Date:

December 10, 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 December 10, 2009. The 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 August 17, 2009, the Claimant applied for MA-P and SDA.
2. On September 30, 2009, MRT denied the Claimant's request.
3. On October 12, 2009, the Claimant, submitted to the Department, a request for hearing.
4. The State Hearing and Review Team (SHRT) denied request.

5. The Claimant is 48 years old.
6. The Claimant completed education through a GED.
7. The Claimant has employment experience as a dishwasher.
8. The Claimant's limitations have lasted 12 months or more.
9. The Claimant suffers from mood disorder, anxiety disorder, and dependent personality disorder. The Claimant also suffers from a closed head injury resulting in traumatic brain injury.
10. 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.
11. The Claimant has an ongoing GAF score of 45.

#### 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).

In this case, this Administrative Law Judge finds the Claimant maybe considered presently disabled at the third step. The Claimant appears to meet listing 12.02 and 12.04 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.

The supporting evidence includes the medical documentation submitted by the treating physician indicating a severe cognitive impairment. It should be noted that the Claimant testimony was significantly impaired due to the Claimant's inability to understand the questions posed. The Claimant consistently struggled to maintain any concentration and stay on topic. The Claimant demonstrated, during the hearing, an inability to recall her own symptoms or personal history. The Claimant provided testimony regarding her current housing conditions which are unfit for any human to live in; yet, the Claimant was so out of touch with reality she felt the

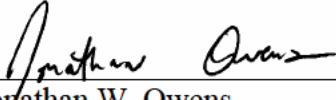
conditions were acceptable. The Claimant testified she has been living without water, heat or electricity. The Claimant's case manager supported her testimony as well. The Claimant's sister ran an extension cord to the Claimant's trailer to provide electricity for an electric blanket. This demonstrates clearly that the Claimant has considerable issues with reality. It should be noted that a referral to adult services was made as a result of this hearing and they are now actively involved with the Claimant. Based upon the Claimant's testimony supported by her therapist and the medical submitted for consideration, the Claimant more than meets the listings as stated above.

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 August 2009.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated August 17, 2009, 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 January 2010.

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

Date Signed: 12/11/09

Date Mailed: 12/11/09

**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 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:

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