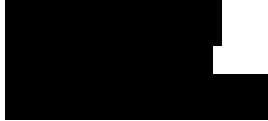


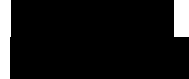
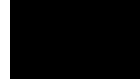
STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201042639

Issue No: 2009/4031



Hearing Date:

August 26, 2010

Tuscola County DHS

**ADMINISTRATIVE LAW JUDGE:** Marya A. Nelson-Davis

**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 telephone hearing was held on August 26, 2010. The record was held open to allow Claimant the opportunity to submit additional medical documentation.

**ISSUE**

Did the department properly determine that Claimant did not meet the disability standard for Medical Assistance based on disability (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:

1. On May 6, 2010, Claimant applied for MA-P and SDA benefits.
2. On June 24, 2010, the Medical Review Team (MRT) denied Claimant's request for MA-P and SDA benefits. (Department Exhibit 1, pp. 9 & 10)
3. On June 29, 2010, the department notified Claimant that he was denied MA-P and SDA benefits.
4. The Department received Claimant's hearing request, protesting the denial of MA-P and SDA benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P and SDA benefits.

6. Claimant applied for disability benefits based on having a “learning disability... can’t comprehend, can’t follow directions, don’t work well with others; can’t focus; mind racing; hears voices...” (Department Exhibit 1, p. 11)
7. Claimant submitted a Mental Residual Functional Capacity Assessment (MRFCA) which indicates that Claimant is markedly limited in the ability to understand and remember detailed instructions; however Claimant is not markedly limited in his ability to do any of the other 19 activities in the four areas essential to work. (Department Exhibit 1, pp. 16 & 17)
8. Claimant was diagnosed with a mood disorder NOS, Alcohol Dependence, and an Affective Disorder secondary to substance use. (Department Exhibit 1, pp. 18- 28)
9. Claimant submitted a Psychiatric Evaluation dated December 1, 2008, which states: Claimant has a significant history of alcohol abuse; he had recently been discharged from rehab treatment; Claimant is a chronic alcoholic and started drinking at age 15; Claimant has a history of using marijuana; Claimant has spent 15 years in prison and 5 years in the county jail secondary to fighting with police, drinking and driving, delivery of ██████████, possession of substances, and burglary; Claimant has no previous history of psychiatric hospitalizations and has not ever had any counseling other than substance abuse treatment; Claimant has never seen any psychiatrist in the past , and his medications are being provided by his medical doctor; and Claimant was diagnosed with a mood disorder-NOS, alcohol induced psychotic disorder with hallucinations, alcohol induced mood disorder, alcohol dependence, and cannabis dependence. Department Exhibit 1, p. 31.
10. Claimant is a 48 year-old male with a GED and unskilled work experience.
11. Claimant was not engaged in substantial gainful activity at any time relevant to this matter.

### **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).

Current legislative amendments to the Act delineate eligibility criteria as implemented by agency policy set forth in program manuals.

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 exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

- (b) A person with a physical or mental impairment which meets federal SSI 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.

“Disability” is:

...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

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. 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 more 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 client's symptoms, signs, and laboratory findings at least equivalent 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 former work that he/she performed within the last 15 years? If yes, the 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, Appendix 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).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

...Medical reports should include –

- (1) Medical history.
- (2) 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 disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

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

...Evidence that you submit or that we obtain 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 your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

In this case, the evidence on the record establishes, clearly, that Claimant's primary impairment is substance abuse. Claimant was diagnosed with a mood disorder NOS, alcohol dependence, and an affective disorder secondary to substance use. Claimant has a significant history of substance abuse. Claimant testified that he walks or rides his bike five blocks to his AA meetings once a week, and he is able to do his other normal activities of daily living independently. According to Claimant, his activities of daily living include doing house work, fixing his own meals, taking his medication, and babysitting his 4-year-old nephew. Based on the objective medical evidence on the record, Claimant is physically and mentally capable of performing substantial gainful activity if he stops drinking alcohol and using drugs.

The federal law does not permit a finding of disability for persons whose primary impairment is substance abuse. P.L. 104-121. Therefore, Claimant does not meet the standard for disability as set forth in the Social Security regulations. Accordingly, the Department's MA-P and SDA decision is upheld.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined that Claimant did not meet the MA-P and SDA disability standard.

Accordingly, the department's MA-P and SDA decision is AFFIRMED.

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/S/  
Marya A. Nelson-Davis  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: February 16, 2011

Date Mailed: February 17, 2011

**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 receipt 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.

MAND/db

cc:

