

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-17469
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 20, 2011
DHS County: Huron

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, an in-person hearing was held in Bad Axe, MI, on June 20, 2011. Claimant appeared and testified. Claimant's mother also appeared and testified. Claimant was represented by [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED].

The record was extended due to the medical record being insufficient to render a disability determination. Claimant's representative was given an opportunity to submit records of Claimant's most recent hospital admission. The Department was ordered to obtain a consulting psychiatric exam. At hearing, it was impressed upon Claimant the need to attend the psychiatric appointment.

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

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 September 27, 2010, Claimant applied for MA-P.
2. On November 12, 2010, the Medical Review Team denied Claimant's request.
3. On January 27, 2011, Claimant submitted to the Department a request for hearing.

4. The State Hearing and Review Team (SHRT) denied Claimant's request.
5. Claimant is 44 years old.
6. Claimant completed education through high school.
7. Claimant has employment experience (last worked March 2006) in a flower shop including sales, deliveries and making flower arrangements, in housekeeping and as a cashier/waitress.
8. Claimant suffers from gastrointestinal bleed, back pain, hives, dry skin, major depression, alcohol dependence and degenerative disc disease.
9. On July 1, 2011, the Department sent an appointment notice for a psychiatric evaluation scheduled for [REDACTED], in accordance with an order issued at hearing. This notice was sent to both Claimant and her representative.
10. On August 10, 2011, an email from Claimant's representative acknowledged the appointment scheduled for Claimant and requested the Department forward a copy of the results.
11. On August 16, 2011, the Department contacted the consulting psychiatrist's office where Claimant's appointment was scheduled and was informed that Claimant had been a no show.
12. On August 16, 2011, the Department informed this Administrative Law Judge of the missed appointment.

CONCLUSIONS OF LAW

MA-P 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 administers MA-P 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 Bridges Reference Manual (RFT).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. 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 are 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 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).

In the present case, Claimant alleged physical disabilities during the hearing. Additional evidence was needed to determine the extent and severity of Claimant's alleged conditions. This Administrative Law Judge ordered the Department to schedule an appointment for a psychiatric evaluation of Claimant. It was impressed upon Claimant the necessity to attend such an evaluation. Claimant failed to attend the evaluation. Pursuant to the aforementioned manual item, this Administrative Law Judge cannot make a finding that Claimant is disabled, since Claimant failed to report for the scheduled evaluation. It should be further noted that Claimant failed to contact Administrative Hearings or the Department with a good cause reason for failing to report for the evaluation as ordered. Therefore, the Claimant cannot be found disabled pursuant to 20 CFR 918(a).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision is hereby UPHeld.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 17, 2011

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Date Mailed: August 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 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/pf

cc:

