

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-11216
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 25, 2011
DHS County: Wayne (82-76)

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 telephone hearing was held on May 25, 2011, from Detroit, MI. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED].

The record was extended to obtain additional medical documentation. Claimant waived timeliness. The additional medical evidence was received and submitted to SHRT for review prior to this decision being issued.

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 February 3, 2010, Claimant applied for MA-P and retro MA-P to November 2009.
2. On December 1, 2010, the Medical Review Team denied Claimant's request.
3. On January 18, 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 42 years old.
6. Claimant completed education through a GED and some college.
7. Claimant has employment experience (last worked 2000) in general labor.
8. Claimant suffers from hypertension, amputation of the right big toe, nerve damage to right shoulder, bipolar disorder, panic disorder and anxiety.
9. Claimant's limitations have lasted for 12 months or more.
10. 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.

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).

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, Appendix 1, 12.00(C).

Claimant's application indicated he was being treated by a psychiatrist. The Medical Review Team failed to obtain any medical documentation from this treating source. The first examination conducted was nearly a year after the original alleged onset date. This consultative examiner indicated on an [REDACTED], examination form that Claimant had a GAF of 45-50. This physician noted that Claimant was not capable of managing any benefit funds. The diagnoses given were bipolar disorder and panic disorder with agoraphobia. This Administrative Law Judge issued an Interim Order to extend the record in an effort to obtain documentation from the treating source. On [REDACTED], Claimant's treating physician completed DHS forms. This physician indicated that Claimant was markedly limited in all but 6 of the 20 areas of the mental residual functional assessment. This physician also noted that Claimant had a GAF of 50.

Claimant testified to the following symptoms and abilities: frequent urination, blurry vision, right leg and knee hurt a lot, right shoulder pain, limited range of motion in right arm, mood swings, irritability, panic attacks 2-3 a month, doesn't want to go outside, isolates self from others, can walk ½ block before right side pain becomes unbearable, can stand 5 minutes, can stand 40 minutes in an 8-hour period, can sit physically without a problem, gets upset if sitting more than 30 minutes, mood swings include depression and anger, violent outbursts at time, hears voices, paranoid thoughts, crying spells, right hand weak grip, can lift less than 10 lbs, bending causes pain, poor concentration and will go days without showering.


In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 12.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of a listing.

Therefore, 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 Claimant is medically disabled as of November 2009.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated February 3, 2010, 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 October 2012.



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

Date Signed: September 26, 2011

Date Mailed: September 26, 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JWO/pf

cc:

