

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30500
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: July 14, 2011
DHS County: Bay

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 on July 14, 2011, in Essexville, MI. Claimant appeared and testified. Claimant was represented by [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED].

The record was extended to allow the State Hearing and Review Team (SHRT) an opportunity to review newly submitted medical evidence. The SHRT denied the claim a second time after their review on August 29, 2011.

Claimant's representative stipulated during the hearing that Claimant's condition had improved as of June 1, 2011. Claimant, through his representative, asked for a review to be completed for a closed period only considering eligibility from March 2010 through May 2011. This decision, therefore, will only address the requested period since Claimant has stipulated he is not disabled as of June 2011 due to medical improvement.

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 June 28, 2010, Claimant applied for MA-P and retro MA-P to March 2010.
2. On January 6, 2011, the Medical Review Team denied Claimant's request.

3. On March 25, 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 43 years old.
6. Claimant completed education through a GED and one semester of college.
7. Claimant has employment experience as stocker at [REDACTED]. He started working a month and a half ago at \$7.40 per hour working 24 hours per week. Previously, he worked in food preparation in a restaurant from July through September 2010 working 20 hours per week at \$7.40 per hour. From November 2009 through March 2010, he worked as a stocker making \$7.40 per hour working 20 hours per week. Previous work in last 15 years includes work as a truck driver, carpenter, and a machinist and also in the fast food industry.
8. Claimant suffers from leg pain, chronic neck and back pain, shortness of breath, varicose veins, major depression, bipolar disorder and anxiety.
9. Claimant's limitations had lasted for 12 months or more.
10. Claimant had significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
11. Claimant had 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 testified to the following symptoms and abilities during the time frame of March 2010 through May 2011: during a closed period, he experienced a lot of crying spells, attempted suicide in hospital, problems with focus and concentration, severe mood swings, struggled with basic social interaction, physically aggressive, easily angered, paranoid thoughts and isolated from people. Claimant was given the opportunity to maintain medications in April 2011. Since being on his medications, his condition improved and as of June 1, 2011, Claimant's mental limitations have significantly decreased in intensity.

The records indicate that Claimant has suffered with mental illness for years. Claimant attempted suicide in March 2010. His treating physician indicated on March 15, 2011, that Claimant was markedly impaired indicating a GAF of 40-45. Claimant's mental instability markedly impacted his ability to perform work at an SGA level. Claimant was able to only maintain less than SGA activity during the time frame in question. A consulting examiner indicated that Claimant's ability to interact with the public and fellow employees was fair back in December 2010. This examiner, however, went on to say that Claimant had a poor ability to maintain concentration and may struggle to withstand normal stressors associated with workplace setting due to his depression and irritability.

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 for the period of March 2010 through May 2011. As indicated above, Claimant and his representative stipulated medical improvement beginning June 2011.

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 March 2010.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated June 28, 2010, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. No review of this case shall be set as the Claimant is as indicated above that he no longer meets the eligibility requirements for disability MA beginning June 1, 2011.



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

Date Signed: October 24, 2011

Date Mailed: October 24, 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,

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- 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.

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:

