

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-46389
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 19, 2011
County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

DECISION AFTER RE-HEARING

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 October 19, 2011, in Detroit, MI. Claimant appeared and testified. Claimant was represented by [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED].

Claimant's representative requested an opportunity to supplement the hearing evidence due to the length of time between application and hearing. An order was issued extending the time frame to allow the Claimant's representative to submit the following:

- a. Psychiatric evaluations completed on the Claimant starting with [REDACTED] to present.
- b. A DHS-49D and DHS-49-E from treating psychiatric physician.

On January 12, 2012, a letter and 1,536 pages of medical documents were received from Claimant's representative. These records were not the records requested to be submitted for consideration. Therefore, these records cannot be considered. The decision shall be based solely on the medical evidence originally admitted at hearing. All other records shall be returned to Claimant's representative.

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 July 26, 2006, Claimant applied for MA-P and retro MA-P to April 2006.
2. On December 19, 2006, the Medical Review Team denied Claimant's request.
3. On November 27, 2006, Claimant submitted to the Department a request for hearing.
4. The State Hearing and Review Team (SHRT) denied Claimant's request.
5. Claimant is 54 years old.
6. Claimant completed education through high school.
7. Claimant has employment experience (last worked 15 years ago) as a delivery driver for a beer company.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from pancreatitis, hypertension, diabetes and schizophrenia.
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 testified to the following symptoms: avoids crowds, poor ability to read and write, issues with being scared about going out of home, gets dizzy when bending over and experiences abdominal pain. The medical records demonstrate that Claimant had had an ongoing mental health issue preceding his application in [REDACTED]. The medical evidence demonstrates Claimant's admissions and treatment for his mental and other health conditions. These records show that Claimant was not capable of living alone and was in and out of adult foster care homes and at times lived homeless on the street. The records show that, even on medications, Claimant still suffered with symptoms from his mental condition including the avoidance of people and not able to care for himself. These records show a societal withdrawal with paranoid thoughts and marked impairment of daily living activities.

Claimant at hearing continued to present attributes and behavior similar to those noted in [REDACTED]. Claimant still felt the need to isolate himself from others, still avoided people in general and was scared to leave his residence.

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 12.03 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 April 2006.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated July 26, 2006, 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 May 2013.



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

Date Signed: April 9, 2012

Date Mailed: April 9, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

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:

