

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201154971  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Hearing Date: January 5, 2012  
Manistee County DHS

**ADMINISTRATIVE LAW JUDGE:** Corey A. Arendt

**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 January 5, 2012. Claimant personally appeared and testified.

**ISSUE**

Whether the Department of Human Services (Department) properly denied Claimant's application for Medical Assistance (MA-P) and Retro-Medicaid?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant is a 41 year-old woman whose birthday is [REDACTED]. Claimant is 5'7" tall and weighs 155 lbs. In 1988, the Claimant graduated from [REDACTED]. From 1988 through 1994, the Claimant attended classes at [REDACTED] (16 credits), [REDACTED] (100 credits) and [REDACTED] (16 credits). From 1984 through 2005, the Claimant worked at [REDACTED] (2005), [REDACTED] (2000-2004), [REDACTED] (1998-2000) and [REDACTED] (1984). The Claimant's job history consisted of general lab work and office work (Lab Technician, Quality Coordinator, Quality Control Technician).
- (2) On October 11, 2010, [REDACTED] from [REDACTED] performed an intake assessment on the Claimant. During the assessment, [REDACTED] found the Claimant's intellectual functioning, thought process, speech, homicidality perceptions and behavior to be within acceptable normal limits. Upon completion of the assessment, [REDACTED] diagnosed the Claimant with Major

Depressive disorder without psychosis, Dysthymic disorder and Generalized Anxiety disorder. [REDACTED] ruled out the Claimant having Bi-Polar disorder. (Department Exhibit B, pp. 27-33).

- (3) On October 27, 2010, [REDACTED], and the Claimant created a Person-Centered Plan. In creating the plan, the Claimant indicated employment was not an option and neither was going back to school. The final plan called for the Claimant to complete the plan by January 27, 2011 and in the process of completing, attend 4-8 counseling sessions per month and 1-4 psychiatric evaluations per month. (Department Exhibit B, pp. 34-37).
- (4) On November 3, 2010, the Claimant saw [REDACTED]. The Claimant told [REDACTED] nothing went well the prior week and nothing went bad either. The Claimant told [REDACTED] she felt she might be Bipolar and have an antisocial personality disorder. (Department Exhibit B, p. 47).
- (5) On November 10, 2010, the Claimant saw [REDACTED]. The Claimant told [REDACTED] there were no changes since the last time she saw her. During the appointment, [REDACTED] guided the Claimant through the progressive muscle relaxation process. The Claimant told [REDACTED] she felt relaxed after going through the process. At or around the time of the appointment, [REDACTED] found the Claimant to be very intelligent and capable of understanding and applying CBT therapy and skills to her life. (Department Exhibit B, p. 48).
- (6) On December 27, 2010, a Medical Provider from [REDACTED] performed a psychiatric evaluation of the Claimant. Upon completion of the psychiatric evaluation, the Medical Provider diagnosed the Claimant with Bipolar disorder, Obsessive-Compulsive Disorder, Panic Disorder (with Agoraphobia), Somatization disorder and severe insomnia. (Department Exhibit B, pp. 59-63).
- (7) On January 12, 2011, the Claimant met with a Medical Provider. The Medical Provider found the Claimant to be slightly improved since the last time they met. (Department Exhibit B, pp. 64, 65).
- (8) On January 26, 2011, [REDACTED] and the Claimant created a second Person-Centered Plan. In creating the second plan, the Claimant indicated employment was not an option and neither was going back to school. The final plan called for the Claimant to complete the plan by April 26, 2011 and in the process of completing, attend 4 counseling sessions per month and 1-2 psychiatric evaluations per month. (Department Exhibit B, pp. 38-41).

- (9) On January 27, 2011, [REDACTED] and the Claimant participated in a PCP review. The PCP review covered the time period of October 27, 2010 through January 26, 2011. The PCP review indicated the Claimant was diagnosed with Bipolar disorder, Obsessive Compulsive disorder, Panic disorder with Agoraphobia and Somatization disorder. In addressing the Claimant's goals, the PCP review indicates the Claimant partially met her goal of better managing her depression and anxiety and has learned and applied relaxation techniques to her everyday life. (Department Exhibit B, p. 42).
- (10) On January 28, 2011, [REDACTED] examined the Claimant. On January 28, 2011, the Claimant complained of upper extremity pain. [REDACTED] found the Claimant to have a full range of motion of the bilateral shoulders with palpable right radial pulses. [REDACTED] did not find any tehnar atrophy. [REDACTED] found the Claimant's appearance to be improved. The Claimant reported to suffer from fibromyalgia, chronic fatigue and unspecified arthropathy. [REDACTED] requested the Claimant to forward all imaging from previous providers. (Department Exhibit B, pp. 82, 83).
- (11) On February 9, 2011, the Claimant met with [REDACTED]. During the appointment, the Claimant told [REDACTED] she had many of the characteristics of Antisocial Personality disorder and provided [REDACTED] with a list of the 14 characteristics that she believed fit her. Based on the appointment, [REDACTED] didn't see any worsening or improvement in the Claimant's condition. (Department Exhibit B, p. 56).
- (12) On February 23, 2011, the Claimant met with [REDACTED]. During the appointment, the Claimant told [REDACTED] there were no changes. Over the course of the appointment, [REDACTED] lowered the Claimant's fear, anxiety and anger from 90%, 95% and 50% to 50%, 60% and 0% respectively. (Department Exhibit B, p. 57).
- (13) On February 28, 2011, [REDACTED] examined the Claimant. Based upon the examination, [REDACTED] found the Claimant to be much improved from an emotional standpoint. (Department Exhibit B, pp. 79, 80).
- (14) On March 21, 2011, the Claimant met with [REDACTED]. The Claimant told [REDACTED] everything was about the same. The scores were at the same levels from prior inventories. (Department Exhibit B, p. 58).
- (15) On or around March 22, 2011, [REDACTED] examined the Claimant. Based on the examination, [REDACTED] diagnosed the Claimant with Bi-Polar disorder, Obsessive Compulsive disorder, Panic disorder with Agoraphobia, Somatization disorder and severe insomnia.

- (16) On or around March 28, 2011, ██████████, examined the Claimant based on Claimant's complaints of hip pain and depression. During the examination, the Claimant did not indicate any hip pain with palpation over the hips and ██████████ found the Claimant's range of motion to be full. ██████████ also reviewed a recent bilateral upper extremity EMG and nerve conduction study. ██████████ found mild right-sided ulnar neuropathy at the elbow but no evidence of median neuropathy at the wrist, peripheral polyneuropathy, cervical radiculopathy or myopathy. (Department Exhibit B, p. 77, 78).
- (17) On March 29, 2011, the Claimant applied for MA-P based on disability and retro-active Medicaid.
- (18) On or around March 29, 2011, a Department Worker interviewed the Claimant regarding the Claimant's application for MA-P. During the interview, the Claimant indicated her impairments were Bi-polar disorder, Depression, Arthritis and Fibromyalgia. (Department Exhibit B, pp. 12, 13).
- (19) On April 4, 2011, the ██████████ completed a Mental Residual Functional Capacity Assessment regarding the Claimant. ██████████ indicated the Claimant was markedly limited in several categories. (Department Exhibit B, pp. 25, 26).
- (20) On April 25, 2011, ██████████ examined the Claimant. During the examination, the Claimant told Ms. Porter she was helping care for a family member's two children prior to school and for a couple hours after school. The Claimant told ██████████ it provided extra income and helped as a source of socialization related to her depression. (Department Exhibit B, p. 93, 95).
- (21) On or around May 16, 2011, the Claimant submitted to the Department a Medical-Social Questionnaire. The Claimant indicated in the questionnaire her illnesses, injuries and conditions that limit her work are Bipolar, anxiety, depression, bad back, bursitis, carpal tunnel, sacroilitis, arthritis, dizziness, numbness, tingling (arms, feet), migraines, Fibromyalgia, chronic fatigue, endometriosis and hypopnea. At the time, the Claimant completed the questionnaire, the Claimant indicated she weighed 173 pounds; visited with her family two times a week; and drank 2 beers or 2 glasses of liquor a day. (Department Exhibit B, pp. 17-21).
- (22) On June 8, 2011, the Medical Review Team (MRT) denied Claimant's application for MA-P stating Claimant is capable of performing other work. (Department Exhibit B, pp. 3, 4).
- (23) On June 15, 2011, the Department sent Claimant notice her MA-P application was denied. (Department Exhibit B, p. 5).

- (24) On June 24, 2011, Claimant filed a request for a hearing to contest the Department's negative action.
- (25) On November 21, 2011, the State Hearing Review Team (SHRT) denied Claimant's application stating Claimant's impairments do not meet/equal the intent or severity of a Social Security listing; and retains the capacity to perform unskilled work. (Department Exhibit A, p. 1, 2).
- (26) Claimant has applied for Social Security disability and has been denied. (Department Exhibit B, p. 54).

### **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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. 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, that being a five-step sequential evaluation process for determining whether an individual is disabled. (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If it is determined that the Claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the Administrative Law Judge must determine whether the Claimant is engaging in substantial gainful activity. (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities. (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized. (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is

presumed that he/she has demonstrated the ability to engage in SGA. (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he/she is not disabled regardless of how severe his/her physical or mental impairments are and regardless of his/her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" and that said impairment(s) have met the duration requirement (20 CFR 404.1520(c) and 416.920(a)(2)(ii) and (c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). In order for an impairment(s) to meet the duration requirement, the impairment(s) must have lasted or be expected to last for at least 12 months, unless the impairment(s) is expected to result in death (20 CFR 416.909). If the claimant does not have a severe medically determinable impairment or combination of impairments that have met the duration requirement, he/she is not disabled. If the claimant has a severe impairment or combination of impairments that have met the duration requirement, the analysis proceeds to the third step.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment. 20 CFR 416.929(a).

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).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include –

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

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

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 your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e). In cases involving agoraphobia and other phobic disorders, panic disorders, and posttraumatic stress disorders, documentation of the anxiety reaction is essential. At least one detailed description of your typical reaction is required. The description should include the nature, frequency, and duration of any panic attacks or other reactions, the precipitating and exacerbating factors, and the functional effects.

If the description is provided by a medical source, the reporting physician or psychologist should indicate the extent to which the description reflects his or her own observations and the source of any ancillary information. Statements of other persons who have observed you may be used for this description if professional observation is not available.

At step three, the Administrative Law Judge must determine whether the Claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1. (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the Claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement, (20 CFR 404.1509 and 416.909), the Claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the Claimant's residual functional capacity. (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the Claimant's impairments, including impairments that are not severe, must be considered. (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the Claimant has the residual functional capacity to perform the requirements of his/her past relevant work. (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the Claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the Claimant to learn to do the job and have been SGA. (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the Claimant has the residual functional capacity to do his/her past relevant work, the Claimant is not disabled. If the Claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the Claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the Claimant is able to do other work, he/she is not disabled. If the Claimant is not able to do other work and meets the duration requirements, he/she is disabled.

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).

At Step 1, I find the Claimant is not engaged in substantial gainful activity as the Claimant has not worked since September of 2011. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, the Claimant's symptoms are evaluated to see if there is an underlying medically determinable physical or mental impairment(s) that could reasonably be expected to produce the Claimant's pain or other symptoms. This must be shown by medically acceptable clinical and laboratory diagnostic techniques. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of the Claimant's symptoms to determine the extent to which they limit the Claimant's ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, a finding on the credibility of the statements based on a consideration of the entire case record must be made.

I find the objective medical evidence of record does support the Claimant's contention that she is suffering from a severe impairment. The objective medical evidence of record shows Claimant's impairments do meet the *de minimus* level of severity and duration required for further analysis.

At Step 3, I find the Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). The medical documentation contained in Department Exhibit B contains conflicting medical documentation. The Mental Residual Functional Capacity Assessment (MRFCA) indicates the Claimant is markedly limited in several different categories. However there is little to no documentation to substantiate this finding. The Intake Assessment indicates the Claimant is within an acceptable normal limit when it comes to several of the categories the MRFCA indicates the Claimant is markedly limited on. Furthermore, a large majority of the medical documentation indicates the Claimant has only improved since she was first seen for the intake assessment. Therefore, I have given very little weight to the MRFCA completed on April 4, 2011. In addition, the Claimant listed several physical ailments which prevented her from working. There is very little medical documentation to substantiate each physical ailment listed by the Claimant. In fact, the Claimant's own medical provider requested the Claimant to forward her the necessary medical documentation to substantiate the claims the Claimant made to her. Based on the medical documents contained in the file, I do not see where the Claimant ever complied with her medical provider's request.

Claimant's past relevant employment was working as a lab technician. Claimant was unemployed from 2008 to 2010. At Step 4, the objective medical evidence of record is not sufficient to establish that Claimant has severe impairments that have lasted or are expected to last 12 months or more and prevent her from performing the duties required from her past relevant employment for 12 months or more. Accordingly, Claimant is disqualified from receiving disability at Step 4.

Although I have found the Claimant disqualified from receiving disability at both Steps 3 and 4, I will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform other jobs.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. 20 CFR 416.967.

**Sedentary work.** Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

**Light work.** Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. 20 CFR 416.967(b).

**Medium work.** Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

**Heavy work.** Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 5, I find the Claimant has failed to present the required competent, material and substantial evidence which would support a finding that Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Although Claimant has cited medical problems, the clinical documentation submitted by Claimant is not sufficient to establish a finding that Claimant is disabled. Based on the medical evidence of record, the Claimant is capable of performing a wide range of medium work. In addition, the Claimant has described daily activities which are not limited to the extent one would expect, given the complaints of disabling symptoms and limitations. There is no objective medical evidence to substantiate Claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disabled. Furthermore, given the Claimant's age (41), education (high school graduate or more) there are no guidelines that would direct a finding of disabled. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant was not eligible to receive Medical Assistance.

**DECISION AND ORDER**

I find, based upon the above findings of fact and conclusions of law, decide the department has appropriately established on the record that it was acting in compliance with department policy when it denied Claimant's application for Medical Assistance.

Accordingly, the department's decision is **AFFIRMED**.

It is SO ORDERED.

/s/ \_\_\_\_\_  
Corey A. Arendt  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: January 11, 2012

Date Mailed: January 12, 2012

**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.

CAA/cr

cc:

