

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

**IN THE MATTER OF:**



Reg. No.: 2012-21649  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: March 7, 2012  
County: Benzie County

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 March 7, 2012. Claimant personally appeared and testified.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team ("SHRT") for consideration. On May 10, 2012, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

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

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 April 21, 2011, Claimant filed an application for MA benefits alleging disability.
- (2) On November 16, 2011, the Medical Review Team (MRT) denied Claimant's application for MA-P, indicating that Claimant is capable of performing other work based on his non-exertional impairment. (Department Exhibit A, pp 19-20).

- (3) On November 22, 2011, the department sent out notice to Claimant that his application for Medicaid had been denied.
- (4) On December 5, 2011, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On February 3, 2012, the State Hearing Review Team (SHRT) upheld the denial of MA-P benefits indicating there is no evidence of severe physical limitations and Claimant retains the capacity to perform medium work. (Department Exhibit B).
- (6) On May 10, 2012, the SHRT upheld the denial of MA-P benefits indicating Claimant retains the capacity to perform light work. (Department Exhibit C, pp 1-2).
- (7) Claimant has a history of bipolar disorder, panic disorder and a bad back.
- (8) Claimant is a [REDACTED] old man whose birthday is [REDACTED]. Claimant is 5'8" tall and weighs 235 lbs. Claimant completed the high school and five years of college. He has not worked since November 2005.
- (9) Claimant had applied for Social Security disability benefits at the time of the hearing.

#### CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), 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").

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). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant is not involved in substantial gainful activity and testified that he has not worked since November 2005. Therefore, he is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR

916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to bipolar disorder, panic disorder and a bad back.

On June 7, 2010, Claimant underwent a psychological evaluation. His last psychiatric admission was noted to be in 2006. Diagnosis: Axis I: Bipolar disorder, panic disorder; Axis II: Passive-dependent traits; Axis V: Current GAF=60; last year GAF=50. The Mental Residual Functional Capacity Assessment showed Claimant was only markedly limited in his ability to understand and remember detailed instructions.

On February 28, 2011, Claimant met with his CMH provider and stated that he was feeling better since his Lithium had been increased. His mood was stable and he was sleeping without Ambien. He had no suicidal thoughts. He had a mild transient tremor from Lithium, otherwise, no side effects. His appetite was good. His mental status was stable.

On May 10, 2011, Claimant met with his CMH provider. Claimant stated his mood has been somewhat low lately. He denied medication side effects and his appetite was within normal limits. He had mild depressive symptoms, but was doing well otherwise. Insight and judgment were good. No suicidal or homicidal ideations.

On September 27, 2011, Claimant underwent a psychological evaluation by the Disability Determination Service. Claimant was diagnosed on Axis I: Bipolar disorder; Axis III: severe back pain; Axis IV: no social network, unemployed, relies on parents financially; Axis V: GAF=50. Prognosis: Claimant is unlikely to function if out of medications. Medications may contribute to inability in work place. On the Mental Residual Functional Capacity Assessment, Claimant was found not to be markedly limited in Understanding and Memory, Sustained Concentration and Persistence, Social Interaction, or Adaptation.

At Step 2, the objective medical evidence of record shows Claimant was diagnosed with bipolar disorder and panic disorder. However, the objective medical evidence of record is simply not sufficient to establish that Claimant has severe cognitive impairment that has lasted or is expected to last 12 months or more. Accordingly, Claimant is disqualified from receiving disability at Step 2. Therefore, the analysis will continue to Step 3.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The Claimant has alleged mental disabling impairments due to bipolar disorder and panic disorder. Listing 12.04 (affective disorder), was considered in light of the objective evidence.

**12.04 Affective disorders:** Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation.

Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or

3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Repeated episodes of decompensation is defined as three episodes within 1 year, or an average of once every 4 months, each lasting for at least 2 weeks. A review of the evidence shows Claimant was hospitalized twice for bipolar disorder, once in 1998, and again in 2006. Therefore, Claimant does not meet the requirements of 12.04(C)(1). There was also no evidence presented that any increase in mental demands or change in Claimant's environment would be predicted to cause him to decompensate. As a result, Claimant does not meet the requirements of 12.04(C)(2). Finally, there was no evidence of Claimant's inability to function outside of a highly supportive living arrangement, and therefore, the requirements of 12.04(C)(3) were not met. Based on the foregoing, it is found that Claimant's impairment does not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled at Step 3. Accordingly, Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

At Step 4, Claimant's past relevant employment was working as a cashier. 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 him from performing the duties required from his past relevant employment for 12 months or more. Accordingly, Claimant is disqualified from receiving disability at Step 4.

The Administrative Law Judge 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 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 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 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 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, the burden of proof shifts to the department to establish that Claimant has the residual functional capacity to do substantial gainful activity. The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.

At Step 5, the objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least light work duties. Claimant alleges he suffers from bipolar disorder, panic disorder, and a bad back. Claimant completed the Activities of Daily Living Form, indicating that he is able to do normal day-to-day activities, independently. These activities include fixing his own meals, doing household chores, and watching TV. Claimant testified he has a driver's license and is able to drive and spends his days on the computer. Claimant testified he can walk half a mile, is able to stand for 15 minutes, and sit endlessly and is able to lift 20 pounds. Claimant did not submit any medical documentation regarding any diagnosis of impairment to his back. Therefore, only his mental impairments will be considered.

Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does establish that Claimant has the residual functional capacity to perform other work. As a result, Claimant is disqualified from receiving disability at Step 5 based upon the fact that the objective medical evidence on the record shows he can perform light work. Under the Medical-Vocational guidelines, an individual approaching advanced age 50 - 54 (Claimant is 54 years of age), with a high school education or more (Claimant completed five years of college), and an unskilled work history, is not considered disabled pursuant to Medical-Vocational Rule 202.13. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

Claimant has not presented 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. 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. 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

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P benefit program.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

/s/  
Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 6/4/12

Date Mailed: 6/4/12

VLA/ds

