

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201252597
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: August 30, 2012
County: Osceola

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a 3-way telephone hearing was held on August 30, 2012. Claimant appeared with his authorized hearing representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Was disability, as defined below, medically established?

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's MA-P application on February 22, 2012, was denied on May 2, 2012 per BEM 260, with a hearing request on May 10, 2012.
2. On the date of application, Claimant was a 21 year old man whose birth date is October 11, 1990, with a 10th grade education.
3. On May 2, 2012, the Medical Review Team denied Claimant's application stating that Claimant's impairments indicate he has a capacity to perform a wide range of simple, unskilled work.
4. On May 2, 2012, the department caseworker sent Claimant notice that his application was denied.
5. On June 27, 2012, the State Hearing Review Team again denied Claimant's application stating in its analysis and recommendation

Claimant had no previous mental health treatment or medications. With treatment, his condition improved.

6. The hearing was held on August 30, 2012.
7. On date of hearing Claimant admitted he had a RFC to perform his past work: cleaning and maintenance in a saw-mill, carpenter, and farm work.

CONCLUSIONS OF LAW

The regulations governing the hearing and a appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Bridges Reference Manual (BRM).

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. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is 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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability

does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

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).

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).

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).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-

204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, Claimant is not engaged in substantial gainful activity. The evidence in the record indicates the type of jobs that Claimant has had in the past semi-skilled work, carpenter, and farm worker.

The objective medical evidence on the record indicates that the medical exam on February 12, 2012, that the Claimant's mood was "terrific, great;" that mood was congruent; that thought processes were intact; that he was alert and oriented to person, place and time; that recent and remote memory was decreased; that attention span and concentration were intact (DHS Exhibit A, Page 20).

Medical exam on February 13, 2012, states the Claimant neurologically was oriented x3; that there were no obvious focal deficits, fluent speech, and able to follow basic commands (DHS Exhibit A, Page 24).

Medical exam on February 20, 2012, states the Claimant is alert, oriented to person, place and time; that he was pleasant and cooperative throughout the interview; that he had fair eye contact; that he currently denies depression, anxiety, irritability, and agitation; that affect is present; that he denies suicidal or homicidal ideation (DHS Exhibit A, Page 31).

Psychological report February 28, 2012, states a GAF score of 15 on admittance and 60 on discharge (DHS Exhibit A, Page 15).

Medical exam on March 1, 2012, states the Claimant's GAF score of 42.

At Step 2, Claimant has the burden of proof of establishing that he has a severely restrictive mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical medical evidence in the record that Claimant suffers a severely restrictive mental impairment. The clinical impression is that Claimant is stable. Claimant's impairments do not meet duration. There is an insufficient basis upon which a finding that Claimant has met the evidentiary burden of proof can be made.

This Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restrictive mental impairment.

Medical evidence of record on February 28, 2012, established the Claimant GAF score of 15 and upon discharge 60 (DHS Exhibit A, Page 15) and 42 in March 1, 2012. 15 is considered a gross impairment in communication, 42 is a serious impairment with occupational-functioning, and 60 borderline mild/moderate impairment with occupational-functioning. DSM IV (4th edition-revised).

The medical evidence of record does not establish the Claimant's abnormal mental findings has persisted on repeated examinations for a reasonable presumption to be

made that a severe impairment has lasted or expected to last for at least one continuous year.

Also, the Claimant testified at the hearing and admitted he had a RFC to perform his past work.

If claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of Claimant's condition does not give rise to a finding that he would meet a statutory listing in the code of federal regulations.

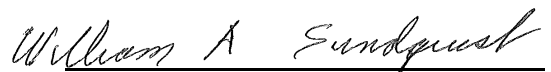
If Claimant had not already been denied at Step 2, this Administrative Law Judge would have to deny him again at Step 4 based upon his ability to perform his past relevant work. There is no evidence upon which the Administrative Law Judge could base a finding that Claimant is unable to perform work in which he has engaged in, in the past. Therefore, if Claimant had not already been denied at Step 2, he would be denied again at Step 4

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 upon the above findings of fact and conclusions of law, decides that 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. The Claimant has admitted he is able to perform his past work even with his mental impairment. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 12, 2013

Date Mailed: February 12, 2013

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.

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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

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

WAS/tb

cc:

