

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-70195
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: November 21, 2012
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on November 21, 2012, from Detroit, Michigan. The Claimant appeared and testified at the hearing. Participants on behalf of the Department of Human Services (Department) were [REDACTED], Medical Contact Worker.

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) and State Disability Assistance (SDA) programs?

FINDINGS OF FACT

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

1. On January 26, 2012, Claimant filed an application for MA and SDA benefits. The application requested MA retroactive to October 1, 2011.
2. On July 13, 2012, the Department denied the application.
3. On August 8, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, who is thirty-four (34) years old ([REDACTED]), has a high-school diploma and a Certificate from Schoolcraft Community College as a caregiver.
5. Claimant last worked in 2004 as a childcare provider. Claimant also performed relevant work as a caregiver in nursing homes and for the developmentally

disabled, and as a home health care worker. Claimant's relevant work history consists exclusively of unskilled, heavy-exertional work activities.

6. Claimant has a history of schizoaffective disorder psychotic type, depression, agoraphobia, and anxiety. Her onset date is March, 2010, when she was hospitalized for psychiatric care and referred for outpatient psychiatric treatment.
7. Claimant was hospitalized for one night in March, 2010 as a result of her impairment. She was discharged with instructions for further treatment at The Guidance Center in Southgate.
8. Claimant currently suffers from schizoaffective disorder psychotic type, depression, agoraphobia, and anxiety.
9. Claimant is severely limited in her mental residual functional capacity, i.e., her understanding, memory, concentration, persistence, social interaction and adaption. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

SDA provides financial assistance for disabled persons and was established by 2004 PA 344. The Department administers SDA pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and RFT.

The Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's mental impairment meets a Federal SSI Listing of Impairment or its equivalent.

State the Listing of Impairment(s):

12.03 Schizophrenic, paranoid and other psychotic disorders: Characterized by the onset of psychotic features with deterioration from a previous level of functioning.

The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

C. Medically documented history of a chronic schizophrenic, paranoid, or other psychotic 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:

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. 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairment 12.03.

The following is a five-step examination of Claimant's eligibility for Medicaid. The State of Michigan Department of Human Services is required by the U.S. Code of Federal Regulations (CFR) to use the U.S. Social Security Act Title XVI Supplemental Security Income five-step test, to evaluate applicants for the Michigan Medicaid disability program. 20 CFR 416.905, 404.1505; 416.920; 42 CFR 435.540.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since 2011, when she worked for a few weeks as a childcare provider. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, as Claimant is not engaged in substantial gainful activity. 20 CFR 404.1520(b), 416.920(b); Dept. Exh. 1, p. 14.

Second, in order to be eligible for MA, Claimant's impairment must be sufficiently serious and be at least one year in duration. In this case, Claimant's onset date is 2010. In 2010, Claimant was hospitalized for psychiatric treatment and was subsequently diagnosed with schizoaffective disorder psychotic type by [REDACTED]. She has been using prescription medications for over two years in order to control her disorder. She continues in treatment with [REDACTED], and is currently prescribed Latuda (antipsychotic medication for schizophrenia), Zoloft (depression, panic and anxiety) and Ativan (anxiety disorder). 20 CFR 404.1520(c), 404.1521; Dept. Exh. 1, p. 4.

Based on this information of record, and all of the evidence in this case taken as a whole, it is found and determined that Claimant's impairments are of sufficient severity

and duration to fulfill the second eligibility requirement. 20 CFR 404.1520(c), 404.1521, 416.920(c).

Turning now to the third requirement for MA eligibility approval, the factfinder must determine if Claimant's impairment is the same as, or equivalent to, an impairment in the federal Listing of Impairments, found at 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments. In this case it is found and determined that Claimant's impairment meets or is the equivalent of Listing 12.03, Schizophrenic, paranoid and other psychotic disorders, and its subparts C and C3. This Listing is set forth above in full. 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments; *see also*, 20 CFR 404.1520(d).

In order to establish eligibility using Listing 12.03, Claimant must first present evidence to show that she has an onset of psychotic features and deterioration from a previous level of functioning. The testimony and documents in this case establish that in March, 2010, Claimant's boyfriend left her, and she lost her house and her dog. Claimant was hospitalized for psychiatric treatment for one night, and was released and sent to [REDACTED] for ongoing treatment. She was diagnosed with schizoaffective disorder psychotic type at [REDACTED], and has treated there for over two years. Claimant was not in a long-term treatment program before this. Dept. Exh. 1, p. 6.

Having considered this evidence of record, it is found and determined that this does establish that Claimant had an onset of psychotic features which was a deterioration from her previous level of functioning. It is found and determined that Claimant did deteriorate from a higher level of functioning, and did experience an onset of psychotic features which required treatment. Therefore, Claimant has established that she has a schizophrenic, paranoid or other psychotic disorder as required to establish eligibility under Listing 12.03.

Next, the requirements of subsection C must be considered. Subsection C requires first, that there must be two or more years of treatment. Claimant's medical records from The Guidance Center establish that she has treated with them since March, 2010. Clmt. Ex. 1. Next, subsection C requires Claimant to prove that because of her impairment, she has more than a minimal limitation of her ability to work. At the hearing Claimant gave credible and un rebutted testimony that she cannot be a childcare provider because she does not foresee risks to children, for example, she forgets to look both ways when crossing the street with children in her care.

Claimant also testified that she has moderate limitations in nine mental functional capacities: the ability to remember locations and work-like procedures, the ability to understand and remember one or two-step instructions, the ability to understand and remember detailed instructions, the ability to carry out simple, one or two-step instructions, the ability to carry out detailed instructions, the ability to make simple work-related decisions, the ability to interact appropriately with the general public, the ability

to get along with co-workers or peers without distracting them or exhibiting behavioral extremes, and the ability to set realistic goals or make plans independently of others.

She also gave credible and unrebutted testimony that she is markedly limited in the following eleven mental functional capacities: the ability to maintain attention and concentration for extended periods, the ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, the ability to sustain an ordinary routine without supervision, the ability to work in coordination with or proximity to others without being distracted by them, the ability to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, the ability to ask simple questions or request assistance, the ability to accept instructions and respond appropriately to criticism from supervisors, the ability to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness, the ability to respond appropriately to change in the work setting, the ability to be aware of normal hazards and take appropriate precautions, and the ability to travel in unfamiliar places or use public transportation.

Having taken into consideration all of the above testimony and all of the evidence in this case taken as a whole, it is found and determined that Claimant has established that her disorder causes more than a minimal limitation of her ability to work. The evidence establishes that Claimant is moderately limited in nine mental functional capacities and markedly limited in eleven other mental functional capacities. This evidence of record satisfies the second part of subsection C of Listing 12.03. The third requirement of subsection C will next be addressed.

The third part of subsection C requires that Claimant present signs or symptoms that are currently attenuated by medication or psychosocial support. In this case, Claimant's medical and other records set forth the following signs or symptoms: depression, auditory and visual hallucinations, paranoia, sleep disturbances, periods of energy bursts and retarded energy, tearfulness, poor grooming, severe headaches, poor memory, panic and irrational fears, lack of appetite, lack of motivation, agoraphobia, vision problems, and inability to manage money. She also told a psychologist that she feels she has superhero powers such as flying. Dept. Exh. 1, pp. 6-8; Clmt. Exh. 1, pp. 3-4, 17.

In relation to these signs and symptoms, Claimant reported to her therapist on at least two occasions that her prescription medication did improve her condition. Clmt. Exh. 1, pp. 1-2, 14-16. Having considered all of this testimony, the medical records, and the entire record taken as a whole, it is found and determined that Claimant has proved that she has the signs and symptoms of the disorder diagnosed by her psychiatrist, and that medication has improved her condition to a certain extent. Therefore, the Claimant has fulfilled all of the requisites of subsection C of Listing of Impairment 12.03.

It remains now to review subsection C3, to see if Claimant has presented sufficient evidence to meet its requirements as well. Subsection C3 requires Claimant to prove

she was unable to function outside a highly supportive living arrangement for at least one year, and, that there is a continuing need for this living arrangement. Claimant's credible and un rebutted testimony, and her reported answers to interview questions, is that she is living independently but she depends on her parents and her boyfriend for transportation and help with shopping, money management, and remembering things. This status has continued for more than two years already. Claimant's medical records from the [REDACTED] indicate that her treatment is continuing and no discharge from treatment is contemplated. Dept. Exh. 1, pp. 6-9, 11-12, 13, 65-69; Clmt. Exh. 1.

Having reviewed and considered all of this evidence and all of the evidence in this case taken as a whole, it is found and determined that Claimant has proved that she is in a highly supportive living arrangement that has lasted for more than one year, and that she has a continuing need for this arrangement. Therefore, the subsection C3 requirement is met in this case.

This concludes a review and analysis as to whether Claimant is eligible for MA based on a mental impairment as defined in Listing of Impairment 12.03. It is found and determined that Claimant's medical impairment meets, or is equivalent to, the requirements of Listing of Impairment 12.03, Schizophrenic, paranoid and other psychotic disorders. Claimant therefore has established eligibility for Medicaid based on her mental impairment. Listing of Impairment 12.03.

As Claimant is found by the undersigned to be eligible for MA based solely on a mental impairment, it is not necessary to proceed further to the last two eligibility requirements of the five-step Medicare eligibility sequence. 20 CFR 416.905, 404.1505; 416.920; 42 CFR 435.540.

In conclusion, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be

NOT DISABLED DISABLED

for purposes of the MA program.

The Department's denial of MA benefits to Claimant is

AFFIRMED REVERSED

Considering next whether Claimant is disabled for purposes of SDA, the individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record finds that Claimant

DOES NOT MEET MEETS

the definition of medically disabled under the Medical Assistance and State Disability Assistance programs as of the onset date of March, 2010.

The Department's decision is

AFFIRMED REVERSED

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate processing of Claimant's January 26, 2012, application, to determine if all nonmedical eligibility criteria for MA and SDA benefits have been met.
2. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate processing of MA and SDA benefits to Claimant, including any supplements for lost benefits to which Claimant is entitled in accordance with policy.
3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits in March, 2014.
4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 11, 2013

Date Mailed: February 11, 2013

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.

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

JL/tm

cc:

