

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-36626
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 7, 2012
County: Oakland (63-04)

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 May 7, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) program?

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 October 10, 2011, Claimant filed an application for MA benefits. The application also requested MA retroactive to July 1, 2011.
2. On January 26, 2012, the Department sent a Notice of Case Action to Claimant, stating the application was denied.
3. On February 24, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age fifty-six [REDACTED] has a twelfth-grade education.

5. Claimant last worked in 2010 as a womens' locker room attendant at a golf club. Claimant's relevant work history consists exclusively of unskilled light-exertional work activities.
6. Claimant has a history of major depressive disorder, recurrent/severe without psychosis, generalized anxiety disorder, right hip pain, hypothyroidism, osteoporosis and gastrointestinal reflux disorder (GERD). The onset date of her major depressive disorder is [REDACTED].
7. Claimant has not been hospitalized as a result of any of her impairments.
8. Claimant currently suffers from major depressive disorder, recurrent/severe without psychosis, generalized anxiety disorder, right hip pain, hypothyroidism, osteoporosis and GERD.
9. Claimant has a severe limitation of her mental ability to perform vocational activities. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning her impairment and limitation, 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 and determines that Claimant **IS NOT DISABLED** for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.

OR

2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.

OR

3. Claimant is capable of performing prior relevant work.

OR

4. Claimant is capable of performing other work.

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

1. Claimant's physical and/or mental impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

Listing of Impairment:

Sec. 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.

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.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:

- a. Anhedonia or pervasive loss of interest in almost all activities; or
- b. Appetite disturbance with change in weight; or
- c. Sleep disturbance; or
- d. Psychomotor agitation or retardation; or
- e. Decreased energy; or
- f. Feelings of guilt or worthlessness; or
- g. Difficult concentrating or thinking; or
- h. Thoughts of suicide; or
- i. Hallucinations, delusions, or paranoid thinking; or;

2. Manic syndrome characterized by at least three of the following:

- a. Hyperactivity; or
- b. Pressure of speech; or
- c. Flight of ideas; or
- d. Inflated self-esteem; or
- e. Decreased need for sleep; or
- f. Easy distractibility; or

- g. Involvement in activities that have a high probability of painful consequences which are not recognized;
or
 - h. Hallucinations, delusion or paranoid thinking; or
3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

B. Resulting in at least two of the following:

- 1. Marked restriction of activities of daily living; or
- 2. Marked difficulties in maintaining social functioning; or
- 3. Marked difficulties in maintaining concentration, persistence or pace; or
- 4. Repeated episodes of decompensation, each of extended duration.

20 CFR 404, Sub-part P, Appendix 1, Sec. 12.04, *Affective Disorders*.

OR

2. Claimant is not capable of performing other work.

It is found and determined that the Claimant's medical records and testimony support the conclusion that she has a mental impairment that is found in Listing of Impairment 12.04, Affective disorders. It is found that Claimant has at least four characteristics of the depressive syndrome:

- 1. Item A1c, sleep disturbance: she describes herself as an "insomniac" and takes Ambien, a sleep medication.
- 2. Item A1d, psychomotor agitation or retardation: she has daily crying spells.
- 3. Item A1f, feelings of guilt or worthlessness: she feels "hopeless and helpless" and that she is "no longer in control of her life." She feels "dead," and would "prefer to be dead."
- 4. Item A1g, difficulty concentrating or thinking: she has marked difficulty understanding and remembering detailed instructions, carrying out detailed instructions, and maintaining attention and concentration for extended periods.

It is further found and determined that Claimant meets at least two of the requirements of 12.04B:

1. Item B2, marked difficulties in maintaining social functioning: Claimant is markedly limited in her ability to interact appropriately with the general public, to be aware of normal hazards and take appropriate precautions, to travel in unfamiliar places or use public transportation, and to set realistic goals or make plans independently of others.
2. Item B3, marked difficulties in maintaining concentration, persistence, or pace: Claimant is markedly limited in her ability to perform activities within a schedule, to maintain regular attendance and be punctual within customary tolerances, to sustain an ordinary routine without supervision, to work in coordination with or proximity to others without being distracted by them, to complete a normal workday and worksheet without interruptions from psychologically-based symptoms, to perform at a consistent pace without an unreasonable number and length of rest periods, to accept instructions and respond appropriately to criticism from supervisors, to get along with co-workers or peers without distracting them or exhibiting behavioral extremes, and to set realistic goals or make plans independently of others.

Based on the Findings of Fact and Conclusions of Law above, Claimant is found to be

NOT DISABLED. **DISABLED.**

for purposes of the program. The Department's denial of 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 Item 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 MA program as of the onset date of [REDACTED].

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 October 10, 2011 application, to determine if all nonmedical eligibility criteria for MA and MA retroactive 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 MA retroactive 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 June 2013.
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: May 14, 2012

Date Mailed: May 15, 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.

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/pf

cc:

