

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-63918
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: September 24, 2012
County: Wayne (82-17)

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 hearing was held on September 24, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant, her husband, [REDACTED], [REDACTED], and Claimant's Authorized Representative, [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) 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 July 18, 2011, Claimant filed an application for MA benefits. The application requested MA retroactive to April 1, 2011.
2. On January 23, 2012, the Department sent a Notice to Claimant, denying the application.
3. On May 11, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age fifty-two [REDACTED] has a Graduate Equivalency Diploma (GED) from high school.

5. Claimant last worked in 2007 as a telephone customer service representative. Claimant also performed relevant work as a mail carrier and a restaurant office manager. Claimant's relevant work history consists exclusively of unskilled light and medium-exertional work activities.
6. Claimant has a history of bipolar disorder, neuropathy, back strain, chronic liver disease, diabetes, high cholesterol, carpal tunnel syndrome and chronic obstructive pulmonary disease. The onset date of Claimant's bipolar disorder is [REDACTED], when she underwent her first ten-day residential treatment program for the disorder.
7. Claimant was hospitalized twelve days in [REDACTED] as a result of bipolar disorder, depression, and probable alcoholic dementia. The discharge instructions to continue outpatient psychiatric treatment.
8. Claimant currently suffers from bipolar disorder, neuropathy, back strain, chronic liver disease, diabetes, high cholesterol, carpal tunnel syndrome and chronic obstructive pulmonary disease.
9. Claimant has severe limitations of her ability to concentrate, remember, stay alert and composed, and interact with others, as well as standing, walking, lifting and carrying. 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 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 previous relevant work.

OR

4. Claimant is capable of performing other work that is available in significant numbers in the national economy.

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.

State the Listing of Impairment(s):

12.04 Affective Disorders, Subsection C1.

OR

2. Claimant is not capable of performing other work that is available in significant numbers in the national economy.

Disability is defined as the inability to do any substantial gainful activity (SGA) 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 twelve months. 20 CFR Sec. 416.905.

The State of Michigan Department of Human Services is required by law to use the U.S. Social Security Act Title XVI Supplemental Security Income test for evaluating applicants for the Michigan Medicaid disability program. The following discussion is the required five-step examination of Claimant's eligibility for Medicaid. 20 CFR Ch. III, Secs. 416.905, 416.920.

First, the claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since 2007. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, and Claimant is not engaged in substantial gainful activity. Department Exhibit 1, p. 9.

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 [REDACTED], Claimant experienced high and low mood swings. She was diagnosed with bipolar disorder and underwent residential psychiatric treatment for one week at [REDACTED]. Since [REDACTED] she has been in residential psychiatric treatment for bipolar disorder four more times, for at least a week's duration each time.

[REDACTED], Claimant was admitted to [REDACTED] for twelve days, when she became comatose. While there, she was again diagnosed with bipolar disorder.

Based on the above evidence of record it is found and determined that Claimant's mental impairment has lasted more than one year and is of sufficient severity that she must be considered for Medicaid benefits.

Turning now to the third requirement for MA eligibility approval, the factfinder must determine if Claimant's impairment is listed as 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 the definition in Listing 12.04, Affective disorders, and its subpart, section C1. This Listing is set forth as follows:

Section 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. 20 CFR, Appendix 1, Subpart P, Part 404, Part A, Listing 12.04.

...

- C. 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.

20 CFR, Appendix 1, Subpart P, Part 404, Part A, Listing 12.04C1.

At the hearing, Claimant gave credible and un rebutted testimony that in [REDACTED] she began having high and low mood swings. She was diagnosed with bipolar disorder and was in psychiatric residential care at [REDACTED] for one week. She was diagnosed with bipolar disorder four more times since then [REDACTED] and went through residential psychiatric care for four more one-week periods. Also, [REDACTED], she was hospitalized for twelve days with bipolar disorder and alcoholic dementia. At the present time, she is undergoing psychiatric treatment and counseling at [REDACTED].

Furthermore, Claimant gave credible and un rebutted testimony that she was fired from the customer service representative job because of her failure to sell company products. She testified that at this job, she could not stop herself from crying. Claimant gets easily confused, she cannot use a computer, she has panic attacks, and she is not good at talking to people. Her medications include Depakote (bipolar disorder), Trazodone (anti-depressant), Cymbalta (anti-depressant) and Ambien (insomnia).

Based on all of the evidence of record in this case taken as a whole, it is found and determined that Claimant's mental impairment meets, or is equivalent to, the requirements of Listing of Impairment 12.04C1, Affective disorders. Claimant, therefore, has established eligibility for Medicaid based on her mental impairment.

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 through steps four and five of the five-step SSI eligibility sequence.

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 Item 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits, should she choose to apply for them.

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 programs 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 July 18, 2011, application, to determine if all nonmedical eligibility criteria for MA and retroactive MA 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 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 November 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: September 27, 2012

Date Mailed: September 27, 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:

