

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201264395
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 30, 2012
County: Oakland

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 telephone hearing was held on October 20, 2012. Claimant appeared along with his authorized hearings representative, [REDACTED] and provided testimony on his behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

The hearing record was extended 90 days for a 2nd SHRT review of medical reports submitted at the hearing. (Claimant Exhibit 1, 78 pages).

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 May 3, 2012, was denied on June 26, 2012 per BEM 260, with a hearing request on July 3, 2012
2. Claimant was age 26, with an 11th grade education, and unskilled work history as a clerk for the dollar store, summer car wash job (DHS Exhibit A, Page 20).
3. Claimant's last employment ended March 2012.
4. Claimant alleges disability due to medically diagnosed disorders of schizoaffective disorder (DHS Exhibit A, Page 115).

5. Medical reports of exams state the Claimant on:
 - a. April 16, 2012, has a current GAF score of 45 (DHS Exhibit A, Page 270).
 - b. April 16, 2012, is not significantly limited in his ability to remember locations and work-like procedures, maintain attention and concentration for extended periods, perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, sustain an ordinary routine without supervision, make simple work-related decisions, ask simple questions or request assistance, accept instructions and respond appropriately to criticism from supervisors, get along with co-workers or peers without distracting them or exhibiting behavioral extremes, responds appropriately to change in the work setting, be aware of normal hazards and take appropriate precautions, travel to unfamiliar places or use public transportation, and set realistic goals or make plans independently of others; he is moderately limited in his ability to understand and remember one or 2-step instructions, carry out simple 1 of 2-step instructions, complete a normal workday and worksheet without interruptions from psychologically based symptoms and perform at a consistent pace without an unreasonable number and length of rest periods, interact appropriately with the general public, and maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness (DHS Exhibit A, Pages 20-29).
 - c. has a GAF score of 50 (DHS Exhibit A, Page 58).
 - d. May 23, 2012, has a current GAF score of 45.
 - e. June 11, 2012, has a current GAF score of 45 (Claimant Exhibit 1, Page 54).
 - f. August 24, 2012, has a current GAF score of 58 (DHS Exhibit A, Page 113).
 - g. September 5, 2012, has a current GAF score of 45 (Claimant Exhibit 1, Page 46).
 - h. October 23, 2012, has a current GAF score of 45 (Claimant Exhibit 1, Page 38).
6. State Hearing Review Team (SHRT) decision dated August 22, 2012, states the Claimant's disorders do not meet/equal a Social Security listing (DHS Exhibit A, Page 115).

CONCLUSIONS OF LAW

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).

Facts above are undisputed.

"Disability" is:

...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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further. ...20 CFR 416.912(a).

When determining disability, the federal regulations are used as a guideline and 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).

Step 1 disability is not denied. The evidence of record establishes the Claimant has not engaged in substantial gainful activities since March 2012.

Step 2, disability is denied. The medical evidence of record, on date of application, does establish the Claimant's significant functional mental incapacity to do basic work activities, but not for the required one year continuous duration, as defined below.

Severe/Non-Severe Impairment

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

Basic work activities. When we talk about basic work activities, we mean 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).

SEVERE IMPAIRMENT

To qualify for MA-P, claimant must first satisfy both the gainful work and the duration criteria (20 CFR 416.920(a)) before further review under severity criteria. If claimant does not have any impairment or combination of impairments which significantly limits physical or mental ability to do basic work activities, an ultimately favorable disability determination cannot result. (20 CFR 416.920(c)).

The burden of proof is on the Claimant to establish disability based on the 5 step process above. ...20 CFR 416.912(a).

Claimant testified that he is unable to do any work because he is paranoid being around people; that he feels people are out to get him and spy on him; that the onset of this disorder was during 2009; and that he can lift/carry 15-16 pounds.

The medical evidence of record establishes the Claimant's GAF scores of 45 and 50 in April 2012, 45 in May and June 2012, 58 in August 2012, and 45 in September and October 2012.

From April to October 2012 is approximately six months duration (less than the 12 months required duration). Also, during this period the Claimant had a non-severe impairment of 58 in August. Therefore, the durational requirement has not been established.

The medical evidence of record does not establish the Claimant's abnormal mental findings have persisted on a repeated examinations for a reasonable presumption to be made that a severe mental impairment has lasted or was expected to last at least a one year continuous duration.

Therefore, the Claimant has not sustained his burden of proof to establish a mental impairment, instead of a non-severe impairment, for the required duration.

Therefore, the sequential evaluation is required to stop.

If Step 2 disability had not been denied, Step 3 would also be denied. The medical evidence of record, for the required duration, does not establish the Claimant's impairments meet/equal Social Security listed impairment, therefore, the analysis will continue.

If Step 2 disability had not been denied, Step 4 would also be denied. The medical evidence of record, on date of application, does not establish the Claimant's functional

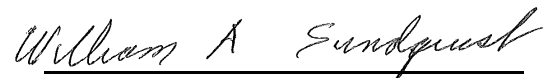
mental incapacity, despite his impairments, to perform any of his past work for the required one year continuous duration.

Therefore, medical disability has not been established at Step 2, and also would not have been established at Steps 3, and 4 by the competent, material and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that disability was not medically established.

Accordingly, MA-P denial is **UPHELD**.



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.

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

201264395/WAS

P.O. Box 30639
Lansing, Michigan 48909-07322

WAS/tb

cc:

