

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

IN THE MATTER OF:



Reg. No.: 2012-73986
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: December 6, 2012
County: Wayne (35)

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 December 6, 2012, at Redford, Michigan. Participants on behalf of Claimant were the Claimant. Participants on behalf of the Department of Human Services (Department) were [REDACTED], Eligibility Specialist.

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 March 25, 2011, Claimant filed an application for MA benefits. The application requested MA retroactive to December 1, 2010.
2. On July 27, 2012, the Department denied the application.
3. On August 9, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, who is forty-one years old ([REDACTED]), has an eighth-grade education. He was a special education student since second grade.
5. Claimant last worked in 2009 as a groundskeeper. Claimant also performed relevant work as a hilo driver and painter. Claimant's relevant work history consists exclusively of unskilled, heavy-exertional work activities.

6. Claimant has a history of back problems, shortness of breath, learning disability, schizophrenia, knee problems, and depression. His onset date is 2011, when he was diagnosed with schizophrenia.
7. Claimant was hospitalized twice as a result of chest pains, shortness of breath and blood pressure. The discharge diagnoses are unknown.
8. Claimant currently suffers from back problems, shortness of breath, learning disability, schizophrenia, knee problems, and depression.
9. Claimant is severely limited in the basic living skills of reading, writing, math and comprehension. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning his 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).

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:

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 is manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes):

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:

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 12.04C3.

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, for evaluating 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 2009. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, and the Claimant is not engaged in substantial gainful activity. 20 CFR 404.1520(b), 416.920(b); Dept. Exh. 1, p. 8.

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 2011. In 2011 Claimant was diagnosed with schizophrenia and major depression at Lincoln Behavioral Services, Redford, by Usha Sudindranath, M.D., Psychiatry and Dempster Yallah, Licensed Social Worker. 20 CFR 404.1520(c), 404.1521; Dept. Exh. 1, p. 20.

Based on this information of record, 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 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 subsections 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 Impairment 12.04;12.04C; 12.04C3; see *also*, 20 CFR 404.1520(d).

In order to prove this disability, Claimant must first establish that he has a diagnosis. On October 5, 2011, Claimant was seen at Lincoln Behavioral Services by Usha Sudindranath, M.D., Psychiatry, and Dempster Yallah, Licensed Social Worker. He continues to treat at Lincoln Behavioral Services.

Dr. Sudindranath diagnosed depression and noted the following in her report of March 28, 2012:

The client suffers panic attacks around people; short of breath; not trusting others; paranoid that people are out to kill him; having visual/auditory hallucinations (sic) therefore cannot function normally in society. The client receives psychiatric services and care management services at LBS [Lincoln Behavioral Services]. He is prescribed psychotropic medications on a monthly basis. The client is paranoid, responding to internal stimuli, depressed often, having racing thoughts associated with memory loss, can't recall simple incidents most times and lacks the ability to carry out detailed instructions. The client has marked limitation (sic) to function independently. He lacks the ability to set realistic goals or implement them. Because of his paranoia he is incapable of working with others. Dept. Exh. 1, pp. 18-20.

At the hearing Claimant gave credible and un rebutted testimony that he was diagnosed with schizophrenia and depression. Based on the psychiatrist's report and the Claimant's un rebutted testimony, it is found and determined that Claimant has a mental impairment within the definition of Listing of Impairment 12.04.

Turning next to subsection C of Listing 12.04, the Claimant must first establish that he has a medically documented history of psychiatric disorder. Dr. Sudindranath's report dated March 28, 2012 fulfills this requirement. Also, Claimant testified he is still in treatment at Lincoln Behavioral Services with a psychiatrist and a therapist, and he is taking prescription medication. *Id.*

Next, the Claimant must document that his impairment has caused more than a minimal limitation of the ability to do basic work activities. Dr. Sudindranath's report states that Claimant "cannot function normally in society," "lacks the ability to carry out detailed instructions," "has marked limitation (sic) to function independently," and, "is incapable of working with others." Claimant's Legal Representative wrote on Claimant's behalf in response to a Department questionnaire, that he has difficulty sleeping, he is very forgetful, he suffers depression and dizziness, and he does not want to be around people. His mother and sister help with housekeeping and prepare food for him. It is found and determined that this information of record does establish that Claimant has more than a minimal limitation of his ability to do basic work activities and this is related to his mental impairment. *Id.* pp. 13-20.

The third requirement of subsection C is that Claimant have symptoms and signs currently attenuated by medication or psychosocial support. It is found and determined that the signs and symptoms present are paranoia, racing thoughts, visual and auditory hallucinations, depression and panic attacks. It is further found that Claimant is

receiving psychotropic medication and psychotherapy. Thus, the requirements of subsection C have been met based on the evidence of record in this case.

Last, it is a requirement that the severity of adjustment be determined at one of three levels. In this case level 3 is the applicable required level, and this definition of severity appears in subsection C3, set forth above. Subsection C3 requires a history of one or more years of inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement. The evidence in this case shows that Claimant lives with his mother and is not capable of shopping, cooking, laundry, housekeeping, and other activities. His sister and his mother help with all the activities of daily living except for Claimant's personal needs such as washing, dressing, grooming, hygiene and bathing. As such, and in light of his psychiatric condition, he is found incapable of an independent lifestyle

It is therefore found and determined that Claimant's mental impairment meets, or is equivalent to, Listing of Impairment 12.04C3, Affective disorders. Claimant has established eligibility for Medicaid based on his mental impairment. Listing of Impairment 12.04C3.

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.

Further, 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, should he 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 program(s) as of the onset date of 2011.

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 March 25, 2011, application, to determine if all nonmedical eligibility criteria for 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 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 5, 2013

Date Mailed: February 6, 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:

