

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-11441
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: February 28, 2013
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 in Lansing, Michigan on February 28, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") and State Disability Assistance ("SDA") benefit programs?

FINDINGS OF FACT

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

1. On March 12, 2012, the Claimant submitted an application for public assistance seeking MA-P and SDA benefits.
2. On October 22, 2012, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit A, pp. 32, 33)
3. On October 26, 2012, the Department notified the Claimant of the MRT determination.
4. On November 5, 2012, the Department received the Claimant's written request for hearing.
5. On January 12, 2013, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit B, pp. 1, 2).

6. The Claimant alleged physically disabling impairments due to a bad back and bad knees.
7. The Claimant alleged mentally disabling impairments due to schizophrenia and bipolar disorders.
8. At the time of hearing, the Claimant was 40 years old with a [REDACTED] birth date; was 6'0" in height; and weighed 200 pounds.
9. The Claimant has a high school education.

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, 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 Tables ("RFT").

Disability is defined as 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.¹ The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged.² An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability.³ Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability.⁴

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities.⁵ The applicant's pain must be assessed to determine the

¹ 20 CFR 416.905(a).

² 20 CFR 416.913.

³ 20 CFR 416.908; 20 CFR 416.929(a).

⁴ 20 CFR 416.927.

⁵ 20 CFR 416.929(c)(3).

extent of his or her functional limitation(s) in light of the objective medical evidence presented.⁶

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized.⁷ The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work.⁸

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps.⁹ If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required.¹⁰ If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four.¹¹ Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence.¹² An individual's residual functional capacity assessment is evaluated at both steps four and five.¹³ In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found.¹⁴ In general, the individual has the responsibility to prove disability.¹⁵ An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities.¹⁶ The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work.¹⁷

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful. Therefore the Claimant is not ineligible for disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for

⁶ 20 CFR 416.929(c)(2).

⁷ 20 CFR 416.920(a)(1).

⁸ 20 CFR 416.920(a)(4); 20 CFR 416.945.

⁹ 20 CFR 416.920(a)(4).

¹⁰ 20 CFR 416.920(a)(4).

¹¹ 20 CFR 416.920(a)(4); 20 CFR 416.945.

¹² 20 CFR 416.945(a)(1).

¹³ 20 CFR 416.920(a)(4).

¹⁴ 20 CFR 416.994(b)(1)(iv).

¹⁵ 20 CFR 416.912(a).

¹⁶ 20 CFR 416.921(a).

¹⁷ 20 CFR 416.912(c)(3)(5)(6).

MA purposes, the impairment must be severe.¹⁸ An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience.¹⁹ Basic work activities means the abilities and aptitudes necessary to do most jobs.²⁰ Examples 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.

The second step allows for dismissal of a disability claim obviously lacking in medical merit.²¹ The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint.²² An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work.²³

In the present case, the Claimant alleges disability due to a bad back, bad knees, schizophrenia and bipolar disorder.

On April 17, 2012, the Claimant underwent an independent psychiatric/psychological exam. The exam was administered by Allison Bush, M.S., LLP. The Claimant identified a bad back, bad knees and a bipolar disorder as conditions that amounted to him being disabled yet identified riding his bike for several hours at a time. Upon observation, Ms. Bush could not identify any difficulty with ambulation. The Claimant appeared well groomed in contact with reality and expressed himself in a clear and organized manner. The Claimant's affect was appropriate throughout the examination. The claimant did identify hallucinations but ██████████ believed the Claimant was exaggerating his symptoms as they were inconsistent. ██████████ could not find any evidence of bipolar disorder and assessed the Claimant as being able to understand, retain and follow through on simple instructions.

¹⁸ 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(b).

¹⁹ 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c).

²⁰ 20 CFR 416.921(b).

²¹ *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988).

²² *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985).

²³ *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

On April 19, 2012, the Claimant underwent a physical examination. The examination was performed by ██████████ M.D. ██████████ found the Claimant's fine and gross dexterity was intact and sensory functions to be full. The Claimant's neck and back had full range of motion and the lower back was nontender. The Claimant's lower extremities had full sensory and motor functions and his gait was normal. The Claimant appeared vigorous and calm with no sad or anxious behaviors. ██████████ was of the opinion the Claimant still had the ability to perform manual labor.

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In the present case, the Claimant testified he had a bad back, bad knees, schizophrenia and a bipolar disorder. The medical evidence does not indicate any disability related to the Claimant's knees or back. And there again is very little evidence of either schizophrenia or a bipolar disorder. The Claimant has not been taking medication for either of the alleged mental conditions and the independent mental health reviewer (Ms. Bush) could not find any markers for a bipolar disorder and did not diagnose the Claimant as schizophrenic.

Therefore, based on the lack of objective medical evidence that the alleged impairment(s) are severe enough to reach the criteria and definition of disability, Claimant is denied at step 2 for lack of a severe impairment and no further analysis is required.

With regard to Claimant's request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department's Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA program. In order to receive SDA, "a person must be disabled, caring for a disabled person or age 65 or older."²⁴ Because Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not show that Claimant is unable to work for a period exceeding 90 (ninety) days, Claimant is also not disabled for purposes of the SDA program.

The Department has established by the necessary competent, material and substantial evidence on the record that it acted in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance or State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P and SDA benefit programs.

Accordingly, it is ORDERED:

²⁴ BEM, Item 261, p. 1.

The Department's determination is **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 13, 2013

Date Mailed: May 14, 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

CAA/las

cc:

