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

IN THE MATTER OF:

Reg. No: 201311432
Issue No: 2009

[redacted]

[redacted]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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, an in-person hearing was held on [redacted]. The Claimant appeared and testified. Claimant's Authorized Hearings Representative, [redacted], also appeared for the Claimant. The Department was represented by [redacted].

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA-P) program application?

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 applied for MA-P on [redacted], with a request for Retroactive Coverage back to [redacted].

2. The Medical Review Team denied the application on [redacted].

3. Claimant filed a request for hearing on [redacted], regarding the MA denial.

4. A telephone hearing was held on [redacted].

5. On [redacted], the State Hearing Review Team denied the application because the despite Claimant's impairments he retains the capacity to perform past work as a file clerk.

6. Claimant is 42 years of age.

7. Claimant's impairments have been medically diagnosed as diabetes, irritable bowel syndrome, hypertension, back pain, bipolar disorder and abdominal mass.

8. Claimant has the following symptoms: pain, fatigue, insomnia, dizziness, panic attacks, memory and concentration problems, social isolation.

9. Claimant completed a 2 year Associates degree.

10. Claimant is able to read, write, and perform basic math skills.

11. Claimant is not working. Claimant last worked in [redacted] as a filing clerk.

12. Claimant lives with his mother.

13. Claimant takes the following prescribed medications:

a. [redacted]
b.
c.
d.
e.
f.

14. Claimant testified to the following physical limitations:

i. Sitting: 5-10 minutes
ii. Standing: 2 minutes
iii. Walking: 1/2 mile
iv. Bend/stoop: difficulty
v. Lifting: 35 lbs.
vi. Grip/grasp: no limitations

15. Claimant testified to experiencing pain at a high level of 6-7 on an every day basis with some pain always present at a low level of 3.

16. In a psychological examination report dated [redacted], Claimant was found to have a GAF score of 68.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who

requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA-P) 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 administers the MA-P 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 Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P program. Under SSI, 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.... 20 CFR 416.905.

Federal regulations require that the department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

> "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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Claimant is not working therefore the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in consi dering whether the Clai mant is c onsidered disabled is whether t he severity of the impa irment. In order to qualify the impairment must be considered s evere which is defined as an impairment which significantly limits an ind ividual's p hysical or mental ab ility to per form basic work activities. Examples of these include:

1. Physical functions s uch as walkin g, standing, sitting, lifting, pushing, 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).

In this case, the Claimant's medical ev idence of record supports a finding t hat Claimant has signific ant physic al and mental limitati ons upon Claimant's abili ty to perform basic work activities such as walk ing, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more t han a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysi s, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds t hat the Claimant's medical rec ord does not support a fi nding that the Claimant's impai rment(s) is a "lis ted impairment" or equal to a listed impairment. Se e Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listing 12.04, 9.00 and 1.04 were considered.

The person claiming a physica l or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/pre scribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjus tments, if a m ental disability is being alleg ed. 20 CRF 416.913. A conc lusory statement by a physici an or mental health professional that an individual is disabled or blind is not sufficient, without supporting medical evidence, to establish disability. 20 CFR 416.927.

The fourth step of the analys is to be cons idered is whet her the Claimant has t he ab ility to perform work previously performed by t he Claimant within the past 15 y ears. The trier of fact must determine whet her the im pairment(s) presented prevent the Claimant

from doing past relevant work. In the pr esent case, the Claimant's past employment was as a f iling c lerk. Working as a filing c lerk as described by Claimant at hearing would be considered light work. The Cla imant's impairments w ould not prevent him from doing past relevant work. Therefore, Claimant's appeal is de nied at step 4. Claimant's testimony regarding his limitations and ability to sit, stand, walk, lift and carry is not supported by substantial medical evidence. Claimant failed to present substantial medical evidence that he has a psychological impairment that is substantially limiting.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides that Claimant is not medically disabled for the purposes of MA-P.

Accordingly, the Department's decision is hereby **AFFIRMED**.

Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 03/19/2013

Date Mailed: 03/20/2013

NOTICE: Administrative Hearings may order a rehearing or reconsider ation on either its own motion or at the request of a party within 30 days of the mailing date of this Decis ion and O rder. Administrative Hearings will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to C ircuit Court within 30 days of the receipt of the Dec ision and Order or, if a timely request for r ehearing 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 e rror, 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

AM/kl

cc: [redacted]