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

IN THE MATTER OF:		Reg. No: 201313854 Issue No: 2009
ADMINISTRATIVE LAW JUDGE: Aaron McClintic		
DECISION AND ORDER		
and MCL 400	s before the undersigned Administrative Law 0.37 upon the Claimant 's request for a he earing was held on . C. Ia , and each testifi ed. The Dep	aring. After due notice, a imant ap peared along with a
<u>ISSUE</u>		
Did the Department pr operly deny Claim ant's Medica I Assistance program (MA-P) 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	
2.	The Medical Review Team denied the application on	
3.	Claimant filed a request for hearing on MA denial.	regarding the
4.	A telephone hearing was held on	
5.	On the State Hearing Review Team denied the application because the Claimant retain is the capacity to perform light unskilled work.	

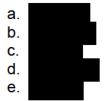
weighs 195 pounds having gained 6 0

Claimant is 5' 11 1/2" tall and

pounds in the last year.

6.

- Claimant is 34 years of age.
- 8. Claimant's impairments have been medically diagnosed as depression, anxiety, arthritis, hypertension, hip and kenee pain, and right shoulder injury.
- 9. Claimant has the follo wing symptoms: pain, fati gue, insomnia, memory and concentration problems, and social isolation.
- 10. Claimant completed high school and a 2 year college degree.
- 11. Claimant is able to read, write, and perform basic math skills.
- 12. Claimant is not workin g. Claima nt last worked in clerk.
- 13. Cla imant lives with his mother.
- 14. Claimant testified that he cannot perform some household chores.
- 15. Claimant takes the following prescribed medications:



16. Claimant testified to the following physical limitations:

i. Sitting: 15 minutesii. Standing: few minutesiii. Walking: 75-100 feetiv. Bend/stoop: no difficulty

v. Lifting: 10 lbs.

vi. Grip/grasp: no limitations

- Claimant testified to experiencing pain at a high level of 10 on a ten point scale on an every day basis wit h some pain always present at a low level of 5.
- 18. In a psychiatric examination report dated found to have a GAF score of 50 with diagnoses of intermittent explosive disorder and depressive disorder.

19. In a mental residual func tional c apacity as sessment dated
Claimant was f ound markedly limited in 3 of 20
categories and moderately limited in 11 of 20 categories.

### **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 oppor tunity for a hearing shall be granted to an ap plicant 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 Medic al 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 Feder al Supplemental Security Income (SSI) policy in determining el igibility for disability under the MA-P program. Under SSI, disability is defined as:

...the inability to do any substant ial 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 r equire 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 indiv idual is disabled, 20 CFR 4 16.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual f unctional c apacity, 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 t he individual is working and if the work is substantial gainful activity. 20 CFR 416.9 20(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 the severity of the impairment. In order to qualify the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform 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 significant physical 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 this case, this Administrative Law J udge finds that Claima nt may be considered presently disabled at the third step. Claimant meets listing 12.04 or its equivalent. The testimony of Claimant's treating therapist supports this position. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of the listing. Claimant has other significant health problems that were not fully addressed in this decision because Claimant is found to meet a listing for a different impairment.

Therefore, Claimant is found to be disabled.

#### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that Claimant is medically disabled as of the conclusion.

Accordingly, the Departm ent's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the applic ation for MA dated done previously, to determine Claim ant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for

Aaron
Administrative
for

Department

McClintic Law Judge Maura Corrigan, Director of Human Services

Date Signed: 04/22/2013

Date Mailed: 04/22/2013

**NOTICE**: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order 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. (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 ti mely 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 ot her relevant iss ues in the hearing decision.

## 201313854/AM

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative hearings Recons ideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

# AM/kl

