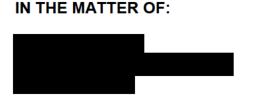
## STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES



Reg. No: 201313868 Issue No: 2009, 4031

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, a telephone hearing was held on Claimant appeared and testified. The Department was represented by

## ISSUE

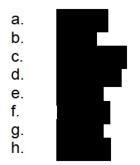
Did the Department pr operly deny Claim ant's Medica I Assistance (MA-P) program application and State Disability Assistance (SDA) application?

# 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 and SDA on retroactive MA coverage back to .
- 2. The Medical Review Team denied the application on
- 3. Claimant filed a request for hearing on MA denial.
- 4. A telephone hearing was held on
- 5. On **Example 2**, the State Hearing Review Team denied t he application because the medic allevidence or record indicates that the Claimant retains the capacity to perform a wide range of medium, unskilled work.
- 6. Claimant is 5' 1" tall and weighs 138 pounds.

- 7. Claimant is 38 years of age.
- 8. Claimant's impairments have been m edically diagnosed as, bipolar disorder, depression and anxiety.
- 9. Claimant has the follo wing symptoms: pain, fati gue, insomnia, memory and concentration problems, anxiety attacks, crying spells, social isolation, suicidal thoughts, and suicide attempt.
- 10. Claimant completed high school.
- 11. Claimant is not able to read, write, and perform basic math skills.
- 12. Claimant is not working. Claimant last worked in as a dog groomer.
- 13. Claimant lives with friends.
- 14. Claimant testified that she can perform some household chores.
- 15. Claimant takes the following prescribed medications:



- i. In a psychological examination report dated Claimant Was found to have a GAF score of 45 with diagnoses of bipolar II Disorder, panic dis order, generalized anxiet y dis order, borderline personality disorder.
- j. In Claimant was found to have a GAF score of 45.
- k. Claimant testified that she has attempted suicide on 20 occasions.

## 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 clai m for assistance has been denied. MAC R

400.903(1). Clients h ave the right to contes t a department decision affecting elig ibility or benefit levels whenev er it is believed that the decis ion is incorrect. The department will provide an adm inistrative 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 im plemented 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 Manua I (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The State Disability A ssistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department polic ies are found in the Bridges Administra tive Manual (BAM), the Program Eligibility Manual (BEM) and the Bridges Reference Manual (PRM).

The Department conforms to state statut e in administering the SDA program. 2000 PA 294, Sec. 604, of the statute states:

- (1) The department shall operat e a state disability assistance program. Except as provided in subsection
- (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:
  - (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
  - (b) A person with a phy sical or mental impairment which meets federal supplemental se curity income disability standards, exc ept that the minimum duration of the disability shall be 90 days. Sub stance abuse alone is not defined as a basis for eligibility.

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 t he 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 di sabled 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 ac tivity. 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 considering whether the Clai mant is considered 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 ab ility 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 evidence 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 c onsidered 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 m edical 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 Cla imant 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 t he above findings of fact and conclusion s of law, decides that Claimant is medically disabled as of **Example 1**.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the applic ation for SDA, MA and Retro MA dated if not done previously, to determine Claimant's non-medical eligib ility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for

> Aaron Administrative for Department

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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 <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration <u>MAY</u> be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical errors, 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.

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

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