STATE OF MICHIGAN

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

IN THE MATTER OF:

Reg. No: 201319618 Issue No: 2009

Case No:

Hearing Date: April 10, 2013

Kent County DHS



ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 on Wednesday; April 10, 2013. Claimant appeared and provided testimony on his behalf with his mother, Participants on behalf of the Department of Human Services (Department) included Irene Middleton.

<u>ISSUE</u>

Was disability, as defined below, medically established?

FINDINGS OF FACT

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

- Claimant applied for MA-P after tu rning 21 on an ex-parte basis on October 12, 2012, was denied on Nove mber 30, 2012 per BEM 260, with a hearing request on December 17, 2012.
- Vocational factors: A ge 21 on Oc tober 21, 2012, wit h a high s chool or more education and currently attending community college full t ime after three years and no past 15 years of employment.
- Claimant has no past employment.
- Claimant alleges disability due to a bipolar disorder. (DHS Exhibit A, Pg. 42).
- 5. Claimant's disabling mental symptoms are chronic irritation, anxiety, and confusion; he admits that he could per form fast foo d type work with no heavy lifting over 25 pounds.

- 6. Medical reports of exams state the claimant on:
 - a. December 16, 2011: Remain s stable; that he has shown tremendous *stability*, tremendous maturity, and generally go od judgment over the last 3-5 years. (DHS Exhibit A, Pg. 19).
 - b. May 8, 2012: Is healthy and doing *well* generally; and that he has had no mood excursions whatsoever for sometime. (DHS Exhibit A, Pg. 18).
 - c. September 21, 2012: Has no missed doses of medication; that his blood work from August was entirel y within normal limits; that he finds his medicines useful and necessary. (DHS Exhibit A, Pg. 17).
 - d. October 23, 2012: His mental residual functional ca pacity assessment states the claimant is not sign ificantly limited in understanding and memory, sustained concentration and persistence, social interacti on, and adaptation except for moderately limited to work in c oordination with or in c lose proximity to others without being distracting to them. (DHS Exhibit A, Pgs. 26 & 27).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by Title 42 of the C ode of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA 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 Bridges Reference Manual (BRM).

Facts above are undisputed.

"Disability" is:

...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.

...We follow a set order to determine whether y ou are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

When determining disability, the federal regulations are used as a guideline and require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analys is of the next step is not required. These steps are:

- 1. Does the client perf orm S ubstantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
- 2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
- 3. Does the impairment appear on a spec ial listing of impairments or are the clie nt's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings spec ified for the listed im pairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
- 4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the anal ysis continues to Step 5. 20 CFR 416.920(e).
- 5. Does the client have the Residual Functional Capacity (RFC) to perform oth er work according to the guidelines set forth at 20 CFR 404, Subpar t P, Appendix 2, Sec tions 200.00-204.00? If yes, the anal ysis ends and the c lient is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

The claimant had the burden of proof to establish disability in accordance with steps 1-4 below... 20CFR 416.912 (a). The burden of proof shifts to the DHS at Step 5... 20CF R 416.960 (c)(2).

[In reviewing your impairment]...We need reports about your impairments from acceptable m edical sources.... 20 CFR 416.913(a).

Acceptable medical verification sources are licensed physicians, osteopaths, or certified psychologists ...20CFR 416.913(a)

...The med ical evidence...mus t be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

It must allow us to determine --

- (1) The nature and limiting effe cts of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capac ity to do w ork-related physical and mental activities. 20 CFR 416.913(d).

Step 1

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your m edical condition or your age, education, and work experience. 20 CFR 416.920(b).

The ev idence of rec ord established that the claimant has not engaged in any past substantial gainful act ivity. Therefore, the sequential evaluation is required to continue to the next step.

Step 2

... [The re cord must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

Basic w ork activities. When we talk about basic work activities, we mean the abilities and aptitudes neces sary to do most jobs. Examples of these 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. 20 CFR 416.921(b).

Non-severe impairment(s). An impairment or combination of impairments is not severe if it does not signific antly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not di sabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

The medic al reports of record are mostly examination, diagnostic, treatment and progress reports. They do not provide medical assessments of Claimant's basic work limitations for the required duration. Stated differently, the medical reports do not establish whether the Claim ant is impaired slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above.

The claimants disabling symptoms (Findings of Fact #5) are inconsiste nt with the objective medical evidence of record (Findings of Fact #6).

...Your sy mptoms, i ncluding pain, will be determined t o diminish your capacity for basic work activities...to the extent that your alleged functional limitations and restrictions due to symptoms, such as pain, can reasonably be accepted as consistent with the objective medical evidence and other evidence. 20 CFR 416.929(c)(4).

The medical evidence does not state the Claimant's medical examinations are abnormal or remarkable or that his impairments were medically sever e, instead of mild to moderate; and that his condition is stab le; and he is doing very well with his medications.

The Claimant has not sustained his bur den of proof to establis h a seve re mental/physical impairment in combination, instead of a n on-severe impairment, for the required duration.

Therefore, the sequential evaluation is required to stop at Step 2.

Therefore, medical disability has not been established at Step 2 by the competent, material and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides disability was not medically established.

Accordingly, MA-P denial is **UPHELD** and so ORDERED.

<u>/s/</u>

William A. Sundquist Administrative Law Judge For Maura D. Corrigan, Director Department of Human Services

Date Signed: April 26, 2013

Date Mailed: April 29, 2013

NOTICE: Administrative Hearings may or der a re hearing 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. Administrative Hear ings will not orde rarehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

WAS/hj

CC:

