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

[redacted]

Reg. No.: 201330899
Issue No.: 2009, 4031
Case No.: [redacted]
Hearing Date: June 12, 2013
County: Livingston County DHS

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 June 12, 2013. Claimant and a witness, [redacted] appeared and testified. The Department was represented by Jennifer DeGrandchamp.

ISSUE

Did the Department properly deny Claimant's Medical Assistance and State Disability applications?

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 November 14, 2012.

2. The Medical Review Team denied the application on February 11, 2013.

3. Claimant filed a request for hearing on February 26, 2013, regarding the MA and SDA denials.

4. A telephone hearing was held on June 12, 2013.

5. On April 23, 2013, the State Hearing Review Team denied the application because the medical evidence or record indicates that the Claimant retains the capacity to perform simple unskilled work.

6. Claimant is 6' 1" tall, and weighs 210, having gained 20 pounds in the last year.

7. Claimant is 37 years of age.

8. Claimant's impairments have been medically diagnosed as cognitive disorder, and adjustment disorder.

9. Claimant has the following symptoms: fatigue, low intellectual functioning.

10. Claimant completed high school in special education classes.

11. Claimant is able to read, write, and perform basic math skills with difficulty.

12. Claimant is not working. Claimant last worked in March 2010, as a janitor.

13. Claimant lives with a friend.

14. Claimant testified that he can perform some household chores.

15. Claimant takes the following prescribed medications:

    (a) Levothyroxine.

16. In May 2012, Claimant was found to have a GAF score of 65, with diagnosis of alcohol dependence, in early remission, cognitive disorder, and adjustment disorder. Claimant's prognosis was found to be fair to guarded.

17. In IQ testing completed in September 2010, Claimant was found to have a full scale IQ score of 68, verbal comprehension score of 74, perceptual reasoning score of 73, working memory score of 69, and processing speed score of 76.

18. In September 2010, Claimant was found to have a GAF score of 47 with a diagnosis of adjustment disorder with depression.

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.

The State Disability Assistance (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 policies are found in the Bridges Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Bridges Reference Manual (PRM).

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

(1) The department shall operate 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 physical or mental impairment which meets federal supplemental security income disability

> standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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 considering whether the Claimant 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 ability to perform basic work activities. Examples of these include:

1. Physical functions such as: walking, 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;

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 that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, 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 than 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 Judge finds that Claimant may be considered presently disabled at the third step. Claimant meets listing 12.05(C) 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 supports 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 conclusions of law, decides that Claimant is medically disabled as of November, 2012.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application for MA and SDA dated November 14, 2012, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for July, 2014.

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

Date Signed: 07/02/2013

Date Mailed: 07/02/2013

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

Am/pw

cc: [redacted]