

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-47400
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: June 19, 2013
DHS MA Spectrum Pilot

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 in Lansing, Michigan on June 19, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

During the hearing, the Claimant waived the time period for the issuance of this decision, in order to allow for the submission of additional medical records. The evidence was received, reviewed, and forwarded for proper consideration. On or around June 25, 2013, this office received the Medical Review Team (MRT) determination which found the Claimant not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") and State Disability Assistance ("SDA") benefit programs?

FINDINGS OF FACT

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

1. On February 4, 2013, the Claimant submitted an application for public assistance seeking MA-P and SDA benefits.
2. On March 26, 2013, the MRT found the Claimant not disabled. (Exhibit A, pp. 12, 13).

3. On March 29, 2013, the Department notified the Claimant of the MRT determination. (Exhibit A, pp. 7, 8, 9).
4. On May 2, 2013, the Department received the Claimant's written request for hearing. (Exhibit A, pp. 3, 4, 5).
5. On May 17, 2013, MRT found the Claimant not disabled a second time. (Exhibit A, pp. 10, 11).
6. On or around June 14, 2013, the Claimant provided the Department additional medical evidence. On or around June 14, 2013, the Department sent the additional medical evidence to MRT for a third review. (Exhibit B, pp. 238-273).
7. On June 25, 2013, MRT found the Claimant not disabled a third time. (Exhibit B, pp. 274, 275).
8. The Claimant alleged physically disabling impairments due to chronic migraines.
9. The Claimant alleged mentally disabling impairments due to bipolar disorders, anxiety, obsessive compulsive disorder, sleep disorder, panic disorder, post-traumatic stress disorder and seasonal affective disorder.
10. At the time of hearing, the Claimant was 31 years old with a [REDACTED] birth date; was 4'11" in height; and weighed 115 pounds.
11. The Claimant has an 11th grade education.

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, 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 Tables ("RFT").

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.¹ The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged.² An individual's subjective pain complaints

¹ 20 CFR 416.905(a).

² 20 CFR 416.913.

are not, in and of themselves, sufficient to establish disability.³ Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability.⁴

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities.⁵ The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented.⁶

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized.⁷ The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work.⁸

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps.⁹ If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required.¹⁰ If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four.¹¹ Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence.¹² An individual's residual functional capacity assessment is evaluated at both steps four and five.¹³ In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found.¹⁴ In general, the individual has the responsibility to prove disability.¹⁵ An impairment or combination of impairments is not severe if it does

³ 20 CFR 416.908; 20 CFR 416.929(a).

⁴ 20 CFR 416.927.

⁵ 20 CFR 416.929(c)(3).

⁶ 20 CFR 416.929(c)(2).

⁷ 20 CFR 416.920(a)(1).

⁸ 20 CFR 416.920(a)(4); 20 CFR 416.945.

⁹ 20 CFR 416.920(a)(4).

¹⁰ 20 CFR 416.920(a)(4).

¹¹ 20 CFR 416.920(a)(4); 20 CFR 416.945.

¹² 20 CFR 416.945(a)(1).

¹³ 20 CFR 416.920(a)(4).

¹⁴ 20 CFR 416.994(b)(1)(iv).

¹⁵ 20 CFR 416.912(a).

not significantly limit an individual's physical or mental ability to do basic work activities.¹⁶ The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work.¹⁷

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful. Therefore the Claimant is not ineligible for disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe.¹⁸ An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience.¹⁹ Basic work activities means the abilities and aptitudes necessary to do most jobs.²⁰ Examples 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.

The second step allows for dismissal of a disability claim obviously lacking in medical merit.²¹ The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint.²² An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work.²³

¹⁶ 20 CFR 416.921(a).

¹⁷ 20 CFR 416.912(c)(3)(5)(6).

¹⁸ 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(b).

¹⁹ 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c).

²⁰ 20 CFR 416.921(b).

²¹ *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988).

²² *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985).

²³ *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, the Claimant alleges disability due to bipolar disorder, anxiety, obsessive compulsive disorder, sleep disorder, panic disorder, post-traumatic stress disorder, seasonal affective disorder and chronic migraines.

On July 19, 2012, the Claimant reported to [REDACTED] emergency room with complaints of a migraine. The Claimant was alert, oriented and conversive. During treatment, the Claimant told the treating physician she was noncompliant with her POC. The Claimant also became agitated and used profanity at the staff after being asked to leave for the 4th time. (Exhibit A, pp. 114 – 131), (Exhibit B, pp. 260 – 261).

On January 12, 2013, the Claimant reported to [REDACTED] emergency room with complaints of a migraine. The Claimant was alert, oriented and conversive. The Claimant was provided medication and later discharged with no signs of nausea or pain. (Exhibit A, pp. 53 – 87), (Exhibit B, pp. 244 – 254).

On January 28, 2013, the Claimant reported to [REDACTED] with reports of a migraine headache. The Claimant was provided with medication and later discharged with greatly diminished pain levels. (Department Exhibit A, pp. 213-214).

On January 29, 2013, the Claimant reported to [REDACTED] emergency room with complaints of a migraine. The Claimant reported to have stopped her blood pressure medication 10 days prior. The Claimant was oriented and conversive with complaints of aching, dull, sharp and throbbing head pain. The Claimant reported significantly less pain after being provided pain medication. (Exhibit A, pp. 31- 52) (Exhibit B, pp. 240 – 243).

On February 3, 2013, the Claimant reported to [REDACTED] with reports of a migraine headache. The Claimant was provided with medication and upon later reexamination the pain had been resolved. (Department Exhibit A, pp. 211 – 212).

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In the present case, the Claimant applied for disability benefits alleging disability due to bipolar disorder, anxiety, obsessive compulsive disorder, sleep disorder, panic disorder, post-traumatic stress disorder, seasonal affective disorder and chronic migraines. The medical evidence does not indicate any disability related to the Claimant's alleged mental disorders. Additionally, there is no social security listing for migraines themselves. And consequently the impairments alleged although subjectively might be rather intense, they are very short in duration and too few in number.

Therefore, based on the lack of objective medical evidence that the alleged impairment(s) are severe enough to reach the criteria and definition of disability, Claimant is denied at step 2 for lack of a severe impairment and no further analysis is required.

With regard to Claimant's request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department's Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA

program. In order to receive SDA, “a person must be disabled, caring for a disabled person or age 65 or older.”²⁴ Because Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not show that Claimant is unable to work for a period exceeding 90 (ninety) days, Claimant is also not disabled for purposes of the SDA program.

The Department has established by the necessary competent, material and substantial evidence on the record that it acted in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance or State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P and SDA benefit programs.

Accordingly, it is ORDERED:

The Department’s determination is **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 10, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department’s motion where the final decision 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 timely 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:

²⁴ BEM, Item 261, p. 1.

- 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 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

CAA/las

cc:

