

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-14767
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: March 20, 2013
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on March 20, 2013. The claimant appeared and provided testimony, along with [REDACTED] [REDACTED] a relative. The department witness was [REDACTED] [REDACTED]. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team ("SHRT") for consideration. On May 31, 2013, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medicaid (MA P) 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. On August 13, 2012, claimant applied for MA and SDA with the Michigan Department of Human Services (DHS).
2. Claimant did not apply for retro MA.
3. On October 29, 2012, the MRT denied.
4. On November 1, 2012, the DHS issued notice.
5. On November 15, 2012, claimant filed a hearing request.

6. On January 23, 2013 and May 31, 2013, the State Hearing Review Team (SHRT) denied claimant.
7. As of the date of hearing, claimant was a 26-year-old female standing 5'3" tall and weighing 130 pounds. Claimant has a high school education and a bachelors degree in education.
8. Claimant testified that she does not smoke cigarettes, drink alcohol or use illegal drugs.
9. Claimant has a driver's license and is able to drive an automobile.
10. Claimant is not currently working. She last worked the beginning of 2012 as a paid caretaker for her grandmother.
11. Claimant alleges disability on the basis of depression, anxiety and bipolar disorder.
12. The claimant was admitted to the hospital in August, 2012 for racing thoughts, racing ideas, inability to keep still, and reckless driving. Her mood improved and she was alert, cooperative, pleasant, with fluent speech. Her mood was stable at discharge. She did not voice any thoughts of harm to self or others. No evidence of psychosis. She was diagnosed with bipolar 2 disorder, depressed, improved and generalized anxiety disorder and assigned a GAF of 51.
13. An independent psychiatric evaluation as conducted on September 18, 2012. The claimant reported that she had anger issues and is mildly depressed. Claimant was pleasant and cooperative. She has good hygiene. She had good eye contact. She was able to carry out a conversation; her thought processes were goal directed. She had considerable difficulty explaining and describing her symptoms. She denied hallucinations/delusions/homicidal or suicidal thoughts. Her affect was rather constricted. There was no psychomotor agitation or retardation. She was diagnosed with bipolar disorder NOS and assigned a GAF of 40.
14. A November 20, 2012 progress note indicated the claimant stated her depression was lifting. Her thought process was well organized and goal directed. Her mood was mildly depressed and affect was mobile. She reported passive suicidal thoughts but denied any intention or plan to act on the thoughts. She did not show any restlessness or agitation but reported feeling anxious and worried. There was no psychomotor agitation or retardation noted during the interview.

15. A January 8, 2013 psychological/vocational report found the claimant was polite and cooperative during the evaluation. She was socially awkward and immature. She was oriented x 3. Claimant's overall intellectual functioning is in the average range. Claimant has a reading disorder. Claimant's responses to psychometric and projective personality measures indicate that she suffers from a chronic psychological disturbance. She was given a diagnosis of schizo-affective disorder and continuation of outpatient treatment was recommended.

CONCLUSIONS OF LAW

The Medical Assistance (MA) 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 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 Program Reference Manual (RFT).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or 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 Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI 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 assessing eligibility, Michigan utilizes the federal regulations. Relevant federal guidelines provide in pertinent part:

"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 federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you 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.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

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 medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(c).
3. Does the impairment appear on a special Listing of Impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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 analysis continues to Step 5. Sections 200.00-204.00(f)?
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

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

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or

perception. They must also be shown by observable facts that can be medically described and evaluated.

- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

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

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). To meet the durational requirements for the MA program, the claimant's condition must last or be expected to last for a continuous period of one year. BEM 261. An impairment or combination of impairments is not severe and a finding of not disabled is made at Step 2 when medical evidence establishes only a slight abnormality or combination of slight abnormalities, which would have no more than a

minimal effect on an individual's ability to work, even if the individual's education and/or work experience were specifically considered. Social Security Ruling 85-28. In other words, a finding of no severity is appropriate when a person's impairments have no more than a minimal effect on his or her physical or mental abilities to perform basic work activities.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work)... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C). There is no Mental Residual Functional Capacity Assessment in the medical case record. The claimant testified that she is capable of her own activities of daily living. The claimant testified that she shops at the grocery store, is independent in her living situation, performs housekeeping duties, goes to church and visits with friends. Psychiatric reports show her thought processes are organized and goal-directed. In fact, the claimant's symptoms appear to be under adequate control when the claimant appropriately follows her treatment plan, by attending therapy appointments and taking medications as prescribed. It is noted that the claimant has gone off of her prescribed medication and is, therefore, not following the prescribed treatment plan of her physician. Although she testified that she prefers to take natural remedies, the medical documentation shows that she was doing very well on the prescribed Abilify. The law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered. In this case, the medical evidence does not document severe medical conditions that would significantly impact the claimant's ability to work, thus the claimant is denied at Step 2 of the analysis.

The claimant has not presented the required competent, material and substantial evidence which would support a finding that the claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. Although the claimant has cited medical problems, the clinical documentation submitted by the claimant is not sufficient to establish a finding that the claimant is disabled. There is no objective medical evidence to substantiate the claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disability. The claimant is not disabled for the purposes of the MA or SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is **UPHELD**.

Suzanne
Administrative

/s/ _____
L. Morris
Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 18, 2013

Date Mailed: July 18, 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 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 timely request for rehearing was made, within 30 days of the mailing 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 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

SLM/hj

cc:

