

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-33287
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 26, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on June 26, 2013, from Lansing, Michigan. Claimant, represented by her grandmother, personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistance Payment Supervisor [REDACTED] [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny Claimant's Medical Assistance (MA) and Retro-MA 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 June 25, 2012, Claimant filed an application for MA/Retro-MA and SDA benefits alleging disability.
2. On February 12, 2013, the Medical Review Team (MRT) approved SDA. MRT denied Claimant's application for MA/Retro-MA indicating lack of duration. (Depart Ex. A, pp 1-2).
3. On February 20, 2013, the department caseworker sent Claimant notice that her application for MA/Retro-MA had been denied and her SDA application had been approved.
4. On February 27, 2013, Claimant filed a request for a hearing to contest the department's negative action.

5. On May 22, 2013, the State Hearing Review Team (SHRT) found Claimant was not disabled and retained the capacity to perform simple and repetitive tasks. (Depart Ex. B, pp 1-2).
6. Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.
7. Claimant is a 25 year old woman whose birthday is [REDACTED].
8. Claimant is 5'4" tall and weighs 150 lbs.
9. Claimant does not have an alcohol or drug problem. She smokes a pack of cigarettes a day.
10. Claimant does not have a driver's license because she owes a reinstatement fee.
11. Claimant has an eighth education.
12. Claimant is not currently working. Claimant last worked in 2010.
13. Claimant alleges disability on the basis of bipolar disorder, schizophrenia and severe psychosis.
14. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.
15. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

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 Bridges Reference Manual (RFT).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance

claimants pay their medical expenses. Michigan administers the federal Medicaid program. 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 ultrasounds, 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).

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 eligible 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). This second step is a *de minimus* standard. Ruling against any ambiguities in Claimant's favor, this Administrative Law Judge (ALJ) finds that Claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by Claimant in the past. 20 CFR 416.920(f). In this case, this ALJ finds that Claimant has no past relevant work. The analysis continues.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). See *Felton v DSS* 161 Mich. App 690, 696 (1987). Once Claimant reaches Step 5 in the sequential review process, Claimant has already established a *prima facie* case of disability. *Richardson v Secretary of Health and Human Services*, 735 F.2d 962 (6th Cir, 1984). At that point, the burden of proof is on the state to prove by substantial evidence that Claimant has the residual functional capacity for substantial gainful activity.

The medical information indicates that Claimant suffers from Bipolar Disorder, most recent manic, severe with mood congruent psychotic features.

In early November, 2012, Claimant underwent a psychological evaluation by the department. Claimant's chief complaint was bipolar disorder with psychotic episodes. She explained that she has been hearing voices that are quite intrusive and wake her up. She said she has not told doctors about hearing voices because she did not want to lose custody of her child. She reported she has had these difficulties for the past four years. She resides with her grandmother. She was lucid throughout the interview, but her eye contact was quite poor. She presented with rapid speech. Her attention and concentration faculties were quite impaired. She also displayed a tendency to repeat her earlier statements and was very loud in her verbal presentation. She reported having difficulties with auditory hallucinations for the past four years. She said she hears voices that tend to be disparaging. She said her auditory hallucinations often tell her that she has special gifts and a "third eye" in her mind. She said that when she closes her eyes, she can often see people because of this "third eye." Immediate memory was limited. Her fund of information was also limited. Her concentration difficulties impacted her ability to stay on task. The examining psychologist opined that Claimant is suffering

from a significant mental illness, Bipolar 1 Disorder. Her Bipolar Disorder is likely severe when not treated with psychotropic medications.

In late November, 2012, Claimant was involuntarily admitted to the adult psychiatric unit. She stipulated to her court order in December, 2012, and was discharged the following day. Her GAF on admission was 15. On discharge it was 70. She appeared to be responding to internal stimuli on admission and had worsening of manic symptoms. She did say that she did want to remove a taste bud from her tongue and she thought clipping it off with fingernail clippers was an appropriate action. She had not been taking medications. She was initially started on Haldol twice daily and continued through her hospital stay. She did not experience any adverse side effects and her mood improved. It did appear that some of her symptoms were caused from amphetamine abuse and she was potentially going through withdrawal the initial part of her 7-day hospital stay. Her urine drug screen was positive for benzodiazepines and amphetamines, both of which she was prescribed. Apparently, she was on a stimulant for ADHD. At discharge her judgment had improved and her insight into her own condition was fair. Her prognosis was fair since she may have a substance abuse issue and did not have the insight into her need for treatment at the time of discharge. This was her third hospitalization because of psychosis and agitation. Most of her three hospitalizations have been involuntary.

In June, 2013, Claimant presented with anxiety, disorganized thinking and hearing voices at her medication review. Claimant was oriented but continued to have feeling of paranoia and is seen frequently talking to herself. Seroquel XR was added to her current medications of Bzotropine, Visatril and Navane.

Claimant testified credibly that she hears voices every day. She reported being fired from her last job because she was hearing voices and could not stay focused.

Claimant's Grandmother credibly testified that Claimant showers with her clothes on, laughs out loud uncontrollably and hears voices. Claimant is often seen talking to herself and talking to people who are not there. Claimant also screams and cries for hours. Claimant lost custody of her son due to her mental illness. Claimant's grandmother also admitted that she used to fear for her safety because Claimant broke her finger, so she slept with her door locked.

Claimant is 25 years old, with an eighth grade education. Claimant's medical records are consistent with her testimony that she is unable to engage in even a full range of sedentary work on a regular and continuing basis. 20 CFR 404, Subpart P, Appendix 11, Section 201.00(h). See Social Security Ruling 83-10; *Wilson v Heckler*, 743 F2d 216 (1986).

The Department has failed to provide vocational evidence which establishes that Claimant has the residual functional capacity for substantial gainful activity and that given Claimant's age, education, and work experience, there are significant numbers of jobs in the national economy which Claimant could perform despite her limitations. Accordingly, this Administrative Law Judge concludes Claimant is disabled for purposes of the MA program.

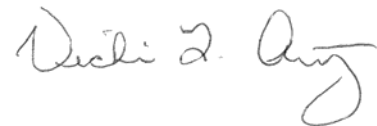
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA eligibility purposes.

Accordingly, the department's decision is **REVERSED**, and it is ORDERED that:

1. The department shall process Claimant's June 25, 2012, MA/Retro-MA application, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The department shall review Claimant's medical condition for improvement in November, 2014, unless her Social Security Administration disability status is approved by that time.
3. The department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: November 13, 2013

Date Mailed: November 13, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

VLA/las

cc:

