

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

IN THE MATTER OF:

████████████████████
████████████████
██████████████████

Reg. No.: 2013 29121
Issue No.: 2009
Case No.: ██████████
Hearing Date: September 9, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in person hearing was held on September 9, 2013 in Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ES.

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

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 5, 2012, Claimant applied for MA-P and retro MA-P.
2. On January 23, 2013, the Medical Review Team denied Claimant's request.
3. The Department issued a Notice of Case Action dated February 11, 2013 denying the Claimant's MA-P application. Exhibit 1
4. On February 22, 2013 Claimant submitted to the Department a timely hearing request.

5. On April 23, 2013 the State Hearing Review Team (SHRT) found the Claimant not disabled and denied Claimant's request.
6. An Interim Order was issued on April 29, 2013 and additional medical evidence was sent to SHRT on October 30, 2013.
7. On December 6, 2013 the SHRT found the Claimant not disabled.
8. Claimant is [REDACTED] years old with a birth date of [REDACTED]
9. Claimant completed the 12th grade and attended special education classes. The Claimant's global IQ was evaluated at 40.
10. Claimant has no employment experience.
11. Claimant alleges physical impairments due to a wrist laceration requiring surgery and artery repair.
12. The Claimant alleges mental disabling impairments including learning disability, cannot read or do math, and schizoaffective disorder.
13. Claimant's limitations have lasted for 12 months or more.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. 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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

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, Appendix 1, 12.00(C).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b).

Secondly, the individual must have a medically determinable impairment that is "severe" or a combination of impairments that is "severe." 20 CFR 404.1520(c). An impairment or combination of impairments is "severe" within the meaning of regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. 20 CFR 404.1521;

Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p. If the Claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the Claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

The third step in the process is to assess whether the impairment or combination of impairments meets a Social Security listing. If the impairment or combination of impairments meets or is the medically equivalent of a listed impairment as set forth in Appendix 1 and meets the durational requirements of 20 CFR 404.1509, the individual is considered disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the trier must determine the Claimant's residual functional capacity. 20 CFR 404.1520(e). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, the trier must consider all of the Claimant's impairments, including impairments that are not severe. 20 CFR 404.1520(e) and 404.1545; SSR 96-8p.

The fourth step of the process is whether the Claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f). The term past relevant work means work performed (either as the Claimant actually performed it or as is it generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. If the Claimant has the residual functional capacity to do his/her past relevant work, then the Claimant is not disabled. If the Claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth step.

In the fifth step, an individual's residual functional capacity is considered in determining whether disability exists. An individual's age, education, work experience and skills are used to evaluate whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e).

Here, Claimant has satisfied requirements as set forth in steps one, two and three of the sequential evaluation. The Claimant is not currently engaging in substantial gainful activity and is not employed; thus, is not disqualified at Step 1. The Claimant's medical evidence referenced below also satisfies the requirement of severity of his impairment thus satisfying Step 2 of the required analysis.

Claimant alleges physical impairments due to wrist laceration and artery repair of his dominant hand with residual weakness and his hand locks up.

The Claimant alleges mental disabling impairments including learning disability, cannot read and do math, and schizoaffective disorder.

A summary of the medical evidence presented follows.

The Department was requested to obtain a consultative mental status examination and an IQ test. The testing was obtained and is not considered sufficiently reliable to be considered objective medical evidence. The examiner finds that the Claimant's condition is guarded and that Claimant cannot manage his funds, yet finds the 40 global IQ score unreliable because the Claimant graduated high school and did not attend special education classes. The Claimant did testify credibly under oath that he did attend special education classes from the 6th grade on. Overall the quality of the evaluation is not such that it can be relied upon as a medical evaluation worthy of consideration as objective medical evidence.

The Claimant does receive some treatment for his mental impairment post-hospitalization for mental impairment by requiring hospitalization involuntarily. The [REDACTED] completed a Mental Residual Functional Capacity Assessment evaluation on [REDACTED] based upon an examination by Claimant's doctor which found the Claimant markedly limited in all four categories, Adaption, Social Interaction, Sustained Concentration and Persistence and Understanding and Memory. The only moderate impairments were in ability to carry out simple one or two step instructions, and ability to respond to dangers in the workplace. A psychological exam report was also prepared noting that the Claimant was in special education and had no work history and noted that the Claimant was unable to manage his benefit funds. The Claimant had been hospitalized just prior to the examination at [REDACTED] for 6 days with other past psych admissions noted.

The exam noted [REDACTED]-year-old black male, single, lives alone on food stamps. Presented as not spontaneous and preoccupied. Affect was restricted. Patient has auditory hallucinations, paranoia and persecutory ideations. Depressed. Insight and Judgment is poor. Diagnosis was schizoaffective disorder and GAF of 50. The treatment goal was to improve psychosis depression and stabilization on medications. The prognosis was fair for community living with continued psych and medical outpatient follow-up.

Listing 12.04 Affective Disorders (1) Depressive Syndrome. The objective medical evidence documented anhedonia, sleep disturbance, difficulty concentrating or thinking, and hallucination; and based upon the mental residual functional capacity assessment the Claimant was markedly limited in all four categories, activities of daily living, social functioning, maintaining concentration, persistence and pace. Additionally the undersigned must note that it was apparent in speaking and questioning the Claimant during the hearing that he exhibited limited understanding of many of the questions asked him. Claimant's comprehension problems were also exhibited based on his difficulty responding to simple questions, and that Claimant was extremely reluctant to take an IQ test believing that it might harm him after several attempts explaining the nature of the test. The Claimant also did not remember his address or phone number, could not read and requires reminders to shower and gets lost when walking. All of this elicited testimony was deemed credible. Thus it is determined that the medical evidence presented supports the finding that the Claimant meets the requirements of Listing 12.04 (1) and B and thus is determined disabled at Step 3 with no further analysis required.

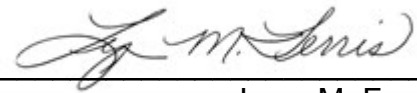
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled not disabled for purposes of the MA-P and/or SDA benefit program.

Accordingly, the Department's determination is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to initiate a review of the application dated August 5, 2012, and any applicable retro application, if not done previously, to determine Claimant's non-medical eligibility.
2. Further, a referral is to be made to Adult Protective Services for an evaluation of possible financial management problems. Specifically, before SDA benefits may be paid to Claimant, Adult Protective Services is to assess the appropriateness of a payee or conservatorship for Claimant because of the related alcohol addiction and psychological problems or other issues which may prevent adequate management or discharge of financial or other personal affairs. See Adult Services Manual, Item 215.
3. A review of this case shall be set for January 2015.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 3, 2014

Date Mailed: January 3, 2014

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]