

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

IN THE MATTER OF:

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Reg. No.: 2013-28908
Issue No.: 2009
Case No.: ██████████
Hearing Date: June 5, 2013
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████.

Claimant's original application was filed ██████████. Claimant's representative was not sent a notice of case action but was sent an MSA-2565. Claimant was given the opportunity to adjourn the hearing and have his original authorized representative an opportunity to be given notice of hearing. Claimant chose to waive his right to representation ██████████.

The record was extended to allow additional relevant medical evidence to be submitted. Claimant waived timeliness. The additional medical evidence was received and submitted to the State Hearing Review Team (SHRT) for review prior to this decision being issued.

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 November 7, 2012, Claimant applied for MA-P and retro MA-P to September 2012.
2. On January 4, 2013, the Medical Review Team denied Claimant's request.
3. On February 4, 2013, Claimant submitted to the Department a request for hearing.
4. SHRT denied Claimant's request.
5. Claimant is 49 years old.
6. Claimant completed education through a GED.
7. Claimant has employment experience (last worked 10 years ago) in a grocery store working in the receiving department (required standing for 8 hours, no sitting, lifting more than 50 lbs and required him to bend, stoop and twist/turn), as a food buyer for a grocery store (standing 6 hours, sitting 2 hours, lifting more than 50 lbs, and required him to bend, stoop and twist/turn), and in office supply sales (required standing for 8 hours, no sitting, lifting more than 20 lbs and required him to bend, stoop and twist/turn).
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from bipolar disorder and underwent a cholecystectomy.
10. Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

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).

Claimant testified to the following symptoms and abilities: no physical barriers, he indicated he is able to manage personal care although sometimes it's a challenge to perform personal care, he needs help with grocery shopping, no license to drive a car, no anxiety or panic attacks, mood swings, moods are low to lower lows, crying spells, no current suicidal thoughts, no hallucinations, sometimes he is not too hungry and he has a nurse who administers his medications.

Claimant's treatment records indicate continued involvement with mental health treatment. Claimant appears to have sufficient intelligence yet the medical evidence and testimony show that Claimant's mental health prevents him from performing work on a substantial gainful level on a consistent basis. Claimant's mental health provider indicates that Claimant is not suitable for even part-time employment. Claimant's consistent mental health struggles are well documented. Claimant has a consistent GAF range of 35-40. Claimant requires assistance with maintaining his medical treatment. Claimant's treating doctor found he was markedly to moderately impaired in seventeen of the twenty areas of the mental residual functional assessment.

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 12.04 or its equivalent. This Administrative Law Judge will not continue through the remaining


steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of a listing.

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 September 2012.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated November 7, 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 January 2015.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 15, 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.

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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

JWO/pf

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