

**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 37614
Issue No.: 2009, 4009
Case No.: ██████████
Hearing Date: July 24, 2013
County: Oakland (02)

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 July 24, 2013 in Madison Heights, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, FIM, and ██████████ 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 college classes.
10. Claimant has no employment experience.
11. Claimant alleges physical impairments due to cervical radiculopathy, lumbar back pain, balance problems, hepatitis C and sleep apnea.
12. The Claimant alleges mental disabling impairments including bipolar disorder, manic and anxiety and depression.
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 cervical radiculopathy, lumbar back pain, balance problems, hepatitis C and sleep apnea.

The Claimant alleges mental disabling impairments including bipolar disorder, manic, depression and anxiety.

A summary of the medical evidence presented follows.

The Claimant currently receives treatment for his mental impairments and has done so for at least one year. He has had his bipolar condition since [REDACTED] and has had at least one voluntary psychiatric hospitalization. The Claimant sees his psychiatrist monthly and also treats with a psychotherapist. The Claimant's medication doses have recently been increased for his bipolar disorder, depression and anxiety. The Claimant's treating psychiatrist completed a Mental Residual Functional Capacity Assessment evaluation on [REDACTED] which found the Claimant markedly limited in all four categories, Adaption, Social Interaction, Sustained Concentration and Persistence and Understanding and Memory. More specifically the Claimant was markedly limited in his ability to make judgments of simple work-related decisions, understand and remember complex instructions, carry out complex instructions, ability to make judgments on complex work related decisions, interact appropriately with the public, and respond appropriately to usual work situations and to changes in a routine work setting. The only moderate impairments were in ability to interact with supervisors or coworkers, carry out simple one or two step instructions, and ability to respond to dangers in the workplace. A psychiatric evaluation was also completed on [REDACTED] which diagnosed the Claimant with Bipolar Disorder I, most recent episode manic, Attention Deficit Disorder hyperactivity disorder, inattentive type, poly substance abuse in remission. The Claimant's GAF score was 50.

The exam noted in the diagnostic summary that the Claimant's current symptoms include episodes of severe depression lasting one month and manic episodes that can last up to 6 weeks. The Claimant was on lithium with some delusional episodes when thought he was in a different dimension. The Claimant was emotionally stable during the examination.

Listing 12.04 3. Bipolar Syndrome and B, 1, 2 and 3 were reviewed. The Claimant reported a long history of mental illness and bipolar disorder with at least one psychiatric hospitalization, the last hospitalization in 2006. The Claimant has treated with [REDACTED] since [REDACTED]. The Claimant's medical evaluations by his treating psychiatrist documented marked limitations sufficient to meet the listing requirements. The Claimant also testified to his problems with memory and concentration which have been affected by his prescribed medications. All of this elicited testimony was deemed credible. In addition deference was given to the treating source opinion of the Claimant's psychiatrist. Thus it is determined that the medical evidence presented supports the finding that the Claimant meets the requirements of Listing 12.04 (3) (B) and thus is determined disabled at Step 3 with no further analysis required.

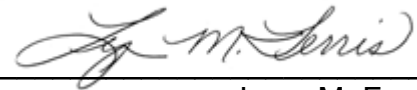
DECISION AND ORDER

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 10, 2012, and any applicable retro application, if not done previously, to determine Claimant's non-medical eligibility.
2. The Department shall issue a supplement to the Claimant for SDA benefits he was otherwise entitled to receive in accordance with Department Policy.
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 16, 2014

Date Mailed: January 16, 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.

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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]
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