

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-38794
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: August 7, 2013
Bay County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held in Lansing, Michigan on August 7, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") and State Disability Assistance ("SDA") benefit programs?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 21, 2013, the Claimant submitted an application for public assistance seeking MA-P and SDA benefits.
2. On March 22, 2013, the MRT found the Claimant not disabled. (Exhibit A, pp. 1, 2).
3. On March 27, 2013, the Department notified the Claimant of the MRT determination.
4. On April 1, 2013, the Department received the Claimant's written request for hearing.

5. On June 10, 2013, the State Hearing Review Team (SHRT) found the Claimant not disabled. (Exhibit B, pp. 1, 2).
6. The Claimant alleged mentally disabling impairments due to bipolar and post-traumatic stress disorder (PTSD). (Exhibit A, p. 5).
7. At the time of hearing, the Claimant was 43 years old with a [REDACTED] birth date; was 5'3" in height; and weighed 166 pounds.
8. The Claimant has a high school education with some college course work.

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, 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 Tables ("RFT").

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.¹ The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged.² An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability.³ Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability.⁴

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities.⁵ The applicant's pain must be assessed to determine the

¹ 20 CFR 416.905(a).

² 20 CFR 416.913.

³ 20 CFR 416.908; 20 CFR 416.929(a).

⁴ 20 CFR 416.927.

⁵ 20 CFR 416.929(c)(3).

extent of his or her functional limitation(s) in light of the objective medical evidence presented.⁶

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized.⁷ The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work.⁸

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps.⁹ If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required.¹⁰ If impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four.¹¹ Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence.¹² An individual's residual functional capacity assessment is evaluated at both steps four and five.¹³ In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found.¹⁴ In general, the individual has the responsibility to prove disability.¹⁵ An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities.¹⁶ The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work.¹⁷

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful. Therefore the Claimant is not ineligible for disability benefits under Step 1.

⁶ 20 CFR 416.929(c)(2).

⁷ 20 CFR 416.920(a)(1).

⁸ 20 CFR 416.920(a)(4); 20 CFR 416.945.

⁹ 20 CFR 416.920(a)(4).

¹⁰ 20 CFR 416.920(a)(4).

¹¹ 20 CFR 416.920(a)(4); 20 CFR 416.945.

¹² 20 CFR 416.945(a)(1).

¹³ 20 CFR 416.920(a)(4).

¹⁴ 20 CFR 416.994(b)(1)(iv).

¹⁵ 20 CFR 416.912(a).

¹⁶ 20 CFR 416.921(a).

¹⁷ 20 CFR 416.912(c)(3)(5)(6).

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe.¹⁸ An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience.¹⁹ Basic work activities means the abilities and aptitudes necessary to do most jobs.²⁰ Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and
6. Dealing with changes in a routine work setting.

The second step allows for dismissal of a disability claim obviously lacking in medical merit.²¹ The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint.²² An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work.²³

In the present case, the Claimant alleges disability due to bipolar disorders, and post-traumatic stress disorder.

On September 25, 2012, the Claimant underwent a psychiatric evaluation by [REDACTED]. [REDACTED] found the Claimant's affect was generally blunted but appropriate to with an anxious and depressed mood. The Claimant reported irritability, racing thoughts and poor sleep. [REDACTED] diagnosed the Claimant with bipolar affective disorder and post-traumatic stress disorder. (Exhibit A, pp. 16-17).

¹⁸ 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(b).

¹⁹ 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c).

²⁰ 20 CFR 416.921(b).

²¹ *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988).

²² *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985).

²³ *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

On December 11, 2012, the Claimant had a psychiatric progress note/medication review with [REDACTED]. The Claimant reported she was moved out on her own and was doing well. The Claimant indicated she was sleeping “pretty well”, not having mood swings and the medicine was working without any side effects. (Exhibit A, p. 19).

Additionally, upon review of the exhibits, I found information regarding the need for a therapy dog. My review indicated the therapy dog is actually the Claimant’s own dog and there is no evidence the dog was trained or certified as a therapy dog. Additionally, it was [REDACTED] who issued a prescription to have her pet dog be with her in public places as the dog comforted her. As of the last checkup (December 2012), the Claimant did not need the dog in order to attend the appointment.

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In the present case, the Claimant applied for disability benefits alleging disability due to bipolar disorders and post-traumatic stress disorder. As of the last progress note (December 2012), the Claimant appeared to have been doing fine as she moved out on her own and reported to be doing well. The medical evidence does not indicate any disability related to the Claimant’s alleged mental disorders.

Therefore, based on the lack of objective medical evidence that the alleged impairment(s) are severe enough to reach the criteria and definition of disability, Claimant is denied at step 2 for lack of a severe impairment and no further analysis is required.

With regard to Claimant’s request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department’s Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA program. In order to receive SDA, “a person must be disabled, caring for a disabled person or age 65 or older.”²⁴ Because Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not show that Claimant is unable to work for a period exceeding 90 (ninety) days, Claimant is also not disabled for purposes of the SDA program.

The Department has established by the necessary competent, material and substantial evidence on the record that it acted in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance or State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P and SDA benefit programs.

²⁴ BEM, Item 261, p. 1.

Accordingly, it is ORDERED:

The Department's determination is **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 13, 2013

Date Mailed: August 14, 2013

NOTICE OF APPEAL: 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).

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.

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

CAA/las

cc:

