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

IN THE MATTER OF:

Reg. No.: 2013-65595
Issue No.: 2009
Case No.:
Hearing Date: February 5, 2014
County: Bay

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 5, 2014, from Essexville, Michigan. Participants on behalf of Claimant included the Claimant. Claimant's Authorized Hearings Representative through also appeared. Participants on behalf of the Department of Human Services (Department) included

ISSUE

Did the Department properly deny Claimant's Medical Assistance application?

FINDINGS OF FACT

1. Claimant applied for MA-P on May 7, 2013.

2. The Medical Review Team denied the application on August 7, 2013.

3. Claimant filed a request for hearing on August 22, 2013, regarding the MA denial.

4. An in person hearing was held on February 5, 2014.

5. On October 14, 2013, the State Hearing Review Team denied the application because the medical evidence of record indicates that the Claimant retains the capacity to perform past work as an assistant manager.

6. Claimant is 5' 10" tall and weighs 180 pounds.

7. Claimant is 51 years of age.

8. Claimant's impairments have been medically diagnosed as diabetes, abscess on back, hand, back and leg pain and depression.

9. Claimant has the following symptoms: pain, fatigue, dizziness, lightheadedness, memory and concentration problems, panic attacks and insomnia.

10. Claimant completed high school and some college.

11. Claimant is able to read, write, and perform basic math skills.

12. Claimant is not working. Claimant last worked in 2008 as a retail assistant manager.

13. Claimant lives with his father.

14. Claimant testified that he cannot perform some household chores.

15. Claimant takes the following prescribed medications:

    a. Neurontin
    b. Humulog
    c. Lantus
    d. Omeprazole
    e. lisinipril

16. Claimant testified to the following physical limitations:

    i. Sitting: 15-20minutes
    ii. Standing: 15 minutes
    iii. Walking: 200 feet
    iv. Bend/stoop: difficulty
    v. Lifting: 8 lbs.
    vi. Grip/grasp: no limitations

17. Claimant testified to experiencing pain, at a high level of 9 on an everyday basis, with some pain always present at a low level of 8.

18. Office notes from July 2013 for [redacted] showed the back ulcer wound was healing properly. It was noted on July 2, 2013 "He has been performing all of his daily activities without complaint." On July 19, 2013 it was noted "He is actually doing quite well."

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department

will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA-P) 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 administers the MA-P 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 Program Reference Manual (PRM).

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

Federal regulations require that the Department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is, or is not, disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Claimant is not working. Therefore, the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is the severity of the impairment. In order to qualify the impairment must be considered severe, which is defined as an impairment which significantly limits an individual's physical, or mental, ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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. 20 CFR 416.921(b).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysis, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record does not support a finding that the Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listings 9.00 and 12.04 were considered.

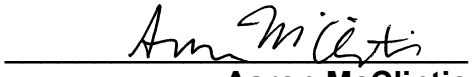
The person claiming a physical, or mental, disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CRF 416.913. A conclusory statement by a physician, or mental health professional, that an individual is disabled, or blind, is not sufficient without supporting medical evidence, to establish disability. 20 CFR 416.927.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, the Claimant's past employment was as a retail assistant manager. Working as a retail assistant manager, as described by Claimant at hearing, would be considered light work. The Claimant's impairments would not prevent Claimant from doing past relevant work. Claimant's testimony regarding his physical limitations was not supported by substantial medical evidence. Claimant failed to present substantial medical evidence that Claimant has an ongoing psychological impairment that is significantly limiting.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides that Cla imant is NOT me dically d isabled for the purpos es of MA- P eligibility.

Accordingly, the Department's decision is hereby **AFFIRMED**.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 27, 2014

Date Mailed: February 27, 2014

NOTICE OF APP EAL: The c laimant may appea l the Dec ision and Order to Circuit Court within 30 days of the rece ipt of the Decision and Order or, i f a timely Request for Rehearing or Reconsiderati on was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 disc overed evidence that existed at the time of the or iginal 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.

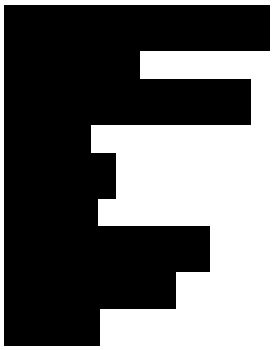
The Department, AHR or the clai mant must specify all reas ons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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

AM/LAS

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