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

#### IN THE MATTER OF:



Reg. No.: 2013-66176 Issue No.: 2009, 4009

Case No.: Hearing Date:

January 22, 2014

County: Newaygo

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

# **HEARING DECISION**

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, upon the Claimant's request for a hearing. After due not ice, a telephone hearing was held on January 22, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included and Participants on behalf of the Department included

# **ISSUE**

Did the Department properly deny Claimant's Medical Assistance and State Disability applications?

# FINDINGS OF FACT

- 1. Claimant applied for MA-P and SDA on May 31, 2013.
- 2. The Medical Review Team denied the application on August 7, 2013.
- 3. Claimant filed a request for hearing on August 30, 2013, regarding the MA and SDA denials.
- 4. A telephone hearing was held on January 22, 2014.
- 5. On October 28, 2013, the State Hearing Review Teram denied the application because the medical evidence of record in dicates that the Claim ant retains the capacity to perform a wide range of simple, unskilled, medium work.
- 6. Claimant is 6' 0" tall and weighs 205 pounds.
- 7. Claimant is 44 years of age.
- 8. Claimant's impairments have been medically diagnosed as depression, anxiety, right knee injury, stomach problems, and panic disorder.

- 9. Claimant has the following symptoms: pain, fatigue, nausea, diarrhea, insomnia, memory and concentration problems, paranoia, racing thoughts, suicide attempts, and crying spells.
- 10. Claimant completed high school and a 2 year college degree.
- 11. Claimant is able to read, write, and perform basic math skills.
- 12. Claimant is not workking. Claimant last worked in 2012 as a screen printer. Claimant previously worked at a radio station.
- 13. Claimant lives with a friend.
- 14. Claimant testified that he cannot perform some household chores.
- 15. Claimant takes the following prescribed medications:
  - a. Zofran
  - b. lithium
  - c. Klonopin
  - d. Norco
  - e. naproxen
- 16. Claimant testified to the following physical limitations:

i. Sitting: few hours

ii. Standing: 5 minutes

iii. Walking: 500 yards

iv. Bend/stoop: some difficulty

v. Lifting: 25-30 lbs.

vi. Grip/grasp: no limitations

- 17. In a psychological examination report dated May 7, 2013, Claimant was found to have a GAF score of 33 with diagnos is of bipolar disorder, and personality disorder.
- 18. Claimant had on MRI for his right knee showed a nondisplaced medial meniscus tear.
- 19. Claimant was not receiving mental health treatment at the time of hearing.

## **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 oppor tunity for a hearing shall be granted to an applicant who

requests a hearing because his or her clai m 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 Medic al 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).

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SD A program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Feder al Supplemental Security Income (SSI) policy in determining el igibility for disability under the MA-P program. Under SSI, disability is defined as:

...the inability to do any substantial gainfu I activit y 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 cont inuous period of not less than 12 months.... 20 CFR 416.905.

Federal regulations r equire that the Depar tment 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 inab ility 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 cont inuous period of not less than 12 months ... 20 CFR 416.905.

In determining whether an indiv idual is disabled, 20 CFR 4 16.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual f unctional c apacity, 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 t he individual is working and if the work is substantial gainful activity. 20 CFR 416.9 20(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 ev idence of record supports a finding t hat Claimant has significant physical and mental limitati ons upon Claimant's ability to perform basic work activities such as walk ing, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established t hat 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 analysi s, 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 1.02 and 12.04 were considered.

The person claiming a physic al, 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/pre scribed 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 analys is to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 y ears. The trier of fact must determine whet her the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, the Claimant's past employment

was as a screen printer and radi o station worker. Working at a radio station, as described by Claimant at hearing, would be considered sedentary work. The Claimant's impairments would not prevent Claimant from doing past relevant work. Cla imant'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 psychologic al impairment that is significantly limiting. Claimant was not receiving mental health treatment at the time of hearing.

# **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that Claim ant is NOT medically disabled for the purposes of MA-P and SDA 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 13, 2014

Date Mailed: February 13, 2014

**NOTICE OF APP EAL:** The claimant may appea I the Dec ision and Order to Circuit Court within 30 days of the receipt 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 or der 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

CC:

