

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-2276
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: February 6, 2014
County: Montcalm

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 tele phone hearing was commenced on February 6, 2014, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist [REDACTED]

ISSUE

Whether the Department properly denied Claimant's State Disability Assistance (SDA) application?

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 July 2, 2013, Claimant filed an application for SDA benefits alleging disability.
2. On September 23, 2013, the Medical Review Team (MRT) denied Claimant's application for SDA for lack of duration. (Depart Ex. A, pp 38-39).
3. On September 25, 2013, the department caseworker sent Claimant notice that his application for SDA had been denied.
4. On October 1, 2013, Claimant filed a request for a hearing to contest the department's negative action.
5. On November 22, 2013, the State Hearing Review Team (SHRT) found Claimant was not disabled because his impairments would not preclude work activity for 90 days. (Depart Ex. B, pp 1-2).

6. Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.
7. Claimant is a 47 year old man whose birthday is [REDACTED] Claimant is 6'3" tall and weighs 250 lbs.
8. Claimant does not have an alcohol, drug or nicotine history.
9. Claimant has a driver's license and is able to drive.
10. Claimant has an eleventh grade education.
11. Claimant is not currently working. Claimant last worked in December, 2012.
12. Claimant alleges disability on the basis of bipolar disorder, schizophrenia, manic-depression, gastroesophageal reflux disease, right shoulder pain, dyslipidemia, insomnia and hyperglycemia.
13. Claimant's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.
14. Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

"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. [SDA = 90 day duration].

[As Judge] We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. 20 CFR 416.927(e).

In June, 2013, Claimant underwent a psychiatric evaluation by the [REDACTED]. Claimant was casually dressed, somewhat poorly groomed and unshaved. His psychomotor activity was slightly decreased. His thinking process was very superficial. He had difficulties recalling or naming the name of his medications or the milligrams, claiming that he cannot read or write. He reported auditory hallucinations occurring mainly at night time while he was asleep and denied that these hallucinations occur at any other time. He denied that he ever experienced suicidal ideation ever in his life, although his records indicated that he did have some thoughts of suicide resulting in a specific plan at the time of intake. He denied any specific homicidal plans, though he expressed concern that he might burst out in an anger outburst or expression if he were to be provoked. His mood was irritable, impulsive and at times, aggressive, though he appeared to be aware of the consequences of going to jail if he were to harm somebody. He was oriented to place and person, but unable to orient himself to time. He also had difficulties providing details about his treatment. He had limited insight and fair judgment. The psychiatrist opined that Claimant had experienced a deterioration of his impulsivity, mood lability and functioning while he was involved in his third marriage and has sought treatment. He reported that with appropriate medication his symptoms had improved, though the loss of his girlfriend and the move to Michigan appeared to have triggered additional stressors with an increase in mood lability and potential for aggression as well as anxiety. Diagnosis: Axis I: Mood Disorder, Cannabis Dependence, History of polysubstance abuse in full remission; Axis II: Personality Disorder; Axis III: History of arthritis,

hypercholesterolemia, gastroesophageal reflux disease, reported history of traumatic injury; Axis IV: Primary support, homelessness, financial restraint; Axis V: GAF=35.

According to the DSM-IV, 4th Ed., a GAF of 35 indicates some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) or major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed adult avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school).

The credible testimony and medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Claimant's July 2, 2013, SDA application cannot be upheld.

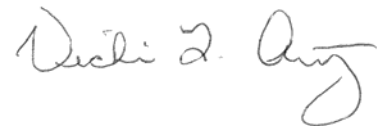
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department erred in determining Claimant is not currently disabled for SDA eligibility purposes.

Accordingly, the department's decision is **REVERSED**, and it is ORDERED that:

1. The department shall process Claimant's July 2, 2013, SDA application, and shall award him all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. The department shall review Claimant's medical condition for improvement in June, 2015, unless his Social Security Administration disability status is approved by that time.
3. The department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 14, 2014

Date Mailed: February 14, 2014

NOTICE OF AP PEAL: 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.

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

VLA/las

cc:

