

**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.: 2014-9806
Issue No.: 2009
Case No.: ██████████
Hearing Date: March 24, 2014
County: Macomb (50-12)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 March 24, 2014, from Clinton Township, Michigan. Participants on behalf of Claimant included Claimant, ██████████
██████████ Participants on behalf of the Department of Human Services (Department) included ██████████

The record was extended to allow additional relevant medical evidence to be submitted. Claimant waived timeliness. The additional medical evidence was received and submitted to the State Hearing Review Team (SHRT) for review prior to this decision being issued.

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 March 8, 2013, Claimant applied for MA-P.
2. On August 9, 2013, the Medical Review Team denied Claimant's request.
3. On October 30, 2013, Claimant submitted to the Department a request for hearing.

4. SHRT denied Claimant's request.
5. Claimant is 42 years old.
6. Claimant completed education through an Associate's Degree in Liberal Arts.
7. Claimant has employment experience (last worked 2001) as a residential house painter which required him to stand or to be on his knees the majority of the shift, limited sitting and lifting up to 10 pounds.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from brain damage, learning disorder, major depression, bipolar disorder, post-traumatic stress disorder and personality disorder.
10. Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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).

Claimant testified to the following symptoms and abilities: poor memory, forgetfulness, gets sick after eating, poor attention and concentration, can walk 20 minutes, can stand 30 minutes before pain increases in back and legs, can sit an hour or two before legs and back cramp up, grip and grasp okay, not able to bend due to loss of balance, struggles with standing in one spot, not able to squat, limited to lifting 10 pounds, poor sleep due to mental and pain problems, isolates himself from others, at night time he hears a humming noise, he tries to eat late evening in hopes of sleeping and keeping the food down, needs reminders to take medications, suicidal thoughts occurring daily, last attempted suicide last year, able to grocery shop but must be small trips due to the need to sit, crying spells occurring daily, anxiety attacks when under pressure, limited cooking, cleaning and laundry due to his inability to perform task for long periods of time, will go a week without showering or bathing, able to manage personal care, able to drive, feelings of worthlessness and low self-esteem, multiple hospitalizations in psychiatric facilities in the last year and a half, he carries a notebook with him to help with his memories, has issues with falling due to the lack of feeling in his feet, will avoid eating due to his dumping syndrome, pain in back of knees and up to lower back and troubles with stomach pain.

Claimant's treating physician noted that Claimant had a GAF of 48. This physician further noted that Claimant is markedly limited and/or moderately limited in twelve of the twenty mental residual functional capacities areas. Claimant's records indicate suicide attempts resulting in brain damage.

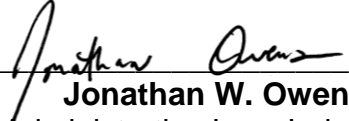
In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 12.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of a listing.

Therefore, Claimant is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of March 2013.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated March 8, 2013, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for July 2015.


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 18, 2014

Date Mailed: June 18, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

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A written request may be faxed or mailed to MAHS. If submitted by fax, 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

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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