

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201425251
Issue No(s): 2009
Case No.: [REDACTED]
Hearing Date: June 12, 2014
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 telephone hearing was held on June 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) and/or 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) Claimant applied for MA-P on September 26, 2012
- (2) Claimant alleged disability due to schizophrenia.
- (3) The first mental medical report in the file is from December, 2012.
- (4) No medical evidence exists prior to that date.
- (5) On January 14, 2014, MRT denied MA-P, stating that Claimant could perform other work.

- (6) Claimant was sent a notice of case action on January 22, 2014.
- (7) Claimant requested a hearing on January 29, 2014.
- (8) On April 17, 2014, the State Hearing Review Team issued a decision, approving MA-P beginning the month of September, 2012, three months prior to the first medical report in the file; retroactive MA to June 2012 was denied.
- (9) On April 28, 2014, an Order of Partial Summary Disposition was issued by MAHS, ordering DHS to implement the April 17, 2014 SHRT decision.
- (10) On June 12, 2014, an administrative hearing was held to make a determination with regards to Claimant's MA-P eligibility for the months of June, July, and August, 2012.
- (11) The record was extended until July 25, 2014 at 5pm to allow the Claimant to present evidence of mental impairment in June, 2014.
- (12) Claimant did not return any additional evidence.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The 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 BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

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

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five step sequential evaluation, and when a determination can be made at any step as to the Claimant's disability status, no analysis of subsequent steps are necessary. 20 CFR 416.920

In the current case, the only issue is whether Claimant should be considered disabled for the purposes of the MA-P program for the months of June, July, and August, 2012. To that extent, the record was extended to allow Claimant to submit evidence of medical disability during those months, as there was no evidence in the file supporting Claimant's allegations. To date, no additional evidence has been returned.

In order to make a determination of disability, a determination must be made as to whether or not the Claimant has a severe impairment. A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual's physical or mental ability to perform basic work activities. The term "basic work activities" means the abilities and aptitudes necessary to do most jobs. Examples of these 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. 20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are "totally groundless" solely from a medical standpoint. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, the Claimant has presented no medical evidence that her mental impairment was present prior to September, 2012. The only medical evidence in the file

is a report from December, 2012; however, this report is silent as to Claimant's history of impairment, and does not provide evidence as to the presence of this impairment prior to September, 2012. As such, the undersigned must hold that Claimant has failed to present evidence of impairment for the months in question.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that the Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities for a period of 12 months or more. 20 CFR 416.920(c).

The medical record as a whole does not establish any impairment that would impact Claimant's basic work activities for a period of 12 months or 90 days (for the purposes of the SDA program) during the time period in question. There are no current medical records in the case that establish that Claimant had a serious medical impairment during the time period in question. There is no objective medical evidence to substantiate the Claimant's claim that the impairment or impairments are severe enough to reach the criteria and definition of disabled during the time period in question. Accordingly, after careful review of Claimant's medical records, this Administrative Law Judge finds that Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) or SDA program for the months of June, July, and August, 2012.

As a finding of not disabled can be made at the step two of the five step process, no further analysis is required. 20 CFR 416.920

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled not disabled for purposes of the MA and/or SDA benefit program for the months of June, July, and August, 2012.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED, with regard to Claimant's request for retroactive MA-P for the period of June, July, and August 2012. This order in no way impacts the April 28, 2014 Order of Partial Summary Disposition, and Claimant should still be considered to be medically eligible for MA-P benefits for the period of September, 2012 ongoing.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 17, 2014

Date Mailed: September 17, 2014

NOTICE OF APPEAL: 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

RJC/tm

cc:

