

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 14-006575
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: September 25, 2014
County: Macomb (12-Mt Clemens)

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 September 25, 2014, from Clinton Township, Michigan. Participants on behalf of Claimant included the Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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 January 27, 2014, Claimant applied for MA-P and retro MA-P to October 2013.
2. On April 4, 2014, the Medical Review Team denied Claimant's request.
3. On April 8, 2014, Claimant submitted to the Department a request for hearing.
4. The State Hearing Review Team (SHRT) denied Claimant's request.
5. Claimant is 45 years old.
6. Claimant completed education through high school.

7. Claimant has employment experience (last worked 2012) in landscaping work which required him to stand/walk the majority of the day and lift 20-25 pounds. He previously worked in tile work which required him to stand/walk the majority of the day and lift 10-15 pounds frequently with up to 50 pounds or more at times.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from bipolar disorder, schizophrenia and alleged a seizure disorder (Grand Mal).
10. Claimant has some 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).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b).

Secondly, the individual must have a medically determinable impairment that is "severe" or a combination of impairments that is "severe." 20 CFR 404.1520(c). An impairment or combination of impairments is "severe" within the meaning of regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. 20 CFR 404.1521;

Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p. If the claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

The third step in the process is to assess whether the impairment or combination of impairments meets a Social Security listing. If the impairment or combination of impairments meets or is the medically equivalent of a listed impairment as set forth in Appendix 1 and meets the durational requirements of 20 CFR 404.1509, the individual is considered disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the trier must determine the claimant's residual functional capacity. 20 CFR 404.1520(e). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, the trier must consider all of the claimant's impairments, including impairments that are not severe. 20 CFR 404.1520(e) and 404.1545; SSR 96-8p.

The fourth step of the process is whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f). The term past relevant work means work performed (either as the claimant actually performed it or as is it generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. If the claimant has the residual functional capacity to do his/her past relevant work, then the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth step.

In the fifth step, an individual's residual functional capacity is considered in determining whether disability exists. An individual's age, education, work experience and skills are used to evaluate whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e).

Here, Claimant has satisfied requirements as set forth in steps one, two and three of the sequential evaluation. However, Claimant's impairments do not meet a listing as set forth in Appendix 1, 20 CFR 416.926. Therefore, vocational factors will be considered to determine Claimant's residual functional capacity to do relevant work.

In the present case, Claimant has been diagnosed with bipolar disorder, schizophrenia and seizure disorder (Grand Mal). Claimant has a number of symptoms and limitations, as cited above, as a result of these conditions. Claimant's records included:

█ ████ █ ████ Claimant was seen for alcohol intoxication with acute encephalopathy. His discharge diagnosis was delirium psychosis, schizo-affective disorder with bipolar, hypertension, reflux, anemia, leukopenia, myelodepression due to polypharmacy of psychotropic drugs, hypokalemia (resolved), active hallucinations and

delusions, urinary retention (resolved). On October 17, 2013, he was assessed a GAF of 35. [REDACTED] a CT scan of the brain without contrast was performed. No definite acute abnormality was noted.

[REDACTED] Claimant was admitted and discharged [REDACTED] with the following diagnoses: delirium psychosis and encephalopathy (resolved), rhabdomyolysis, hypertension (controlled), alcoholism, alcoholic liver disease, hypokalemia, hypomagnesemia, schizoaffective disorder with bipolar. Claimant was noted to have reported drinking liquor all day. [REDACTED] a chest x-ray was performed which revealed no evidence of acute cardiopulmonary process, nonspecific non-obstructive bowel gas pattern, degenerative changes of the lower lumbar spine. A CT of the brain without contrast revealed no evidence of acute intracranial hemorrhage or definite cortical infarction, right parietal subcutaneous soft tissue swelling/hematoma. A CT of the brain/head revealed asymmetric right parietal extracranial scalp swelling without underlying acute intracranial abnormality. [REDACTED] 2d echo revealed a left ventricular ejection fraction estimated at 50%. Normal left ventricular diastolic filling pattern. Mild mitral regurgitation. Pulmonary artery systolic pressure was normal. A chest x-ray performed [REDACTED] interval development of mild nonspecific interstitial prominence, which may relate to edema as well as suggestion of tiny bilateral pleural effusions, borderline enlarged cardiac silhouette.

[REDACTED] Claimant was admitted to the hospital after being found unresponsive by his family. [REDACTED] CT of the brain without contrast revealed an unremarkable CT examination of the brain. A chest x-ray was noted to be unremarkable. [REDACTED] Claimant was evaluated for possible seizure. The EEG was abnormal. This was found consistent with moderate encephalopathy. Claimant was given a mental status exam and found to have a GAF of 10.

[REDACTED] Claimant was admitted after being found unresponsive. He was diagnosed with acute metabolic encephalopathy, hepatitis C, alcoholism, hypertension (controlled), dyslipidemia, schizoaffective disorder with breakthrough symptoms, gross noncompliance and bipolar disease.

Claimant testified to the following symptoms and abilities: grand mal seizures occurring twice a month, he blacks out during seizures and loss of bladder control, consistently taking his medications, poor memory, poor concentration, mood swings from happy to low to angry, racing thoughts, poor sleep, takes naps during the day at least once a for an hour or so, needs reminders for medications, has had issues with not getting to the bathroom on time, can walk 100 feet before his blood pressure increases, pain increase in his right side, can stand 15-20 minutes, no medical restriction on lifting weight, he personally restricts himself to 20-30 pounds, grip and grasp is impacted by his cramping up, can sit an hour to an hour and half, able to manage personal household chores, not able to drive, no suicidal thoughts, he hears voices and he sees his dad who has been dead for 30 years if he misses his medications.

Claimant's testimony was found less than credible. He obviously lied to the court when he was asked if he was still drinking and when did he last drink. He testified he last drank 8-10 years ago. The medical records indicate otherwise and actually demonstrate Claimant has been grossly non-compliant with medical treatment and he himself reported drinking 6-8 beers a day [REDACTED] during his hospital admission.


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, Claimant's past employment was in landscaping work which required him to stand/walk the majority of the day and lift 20-25 pounds. He previously worked in tile work which required him to stand/walk the majority of the day and lift 10-15 pounds frequently with up to 50 pounds or more at times. Claimant failed to present objective medical evidence that would support his alleged physical and/or mental limitations preventing him from performing past relevant work. Claimant's testimony regarding his abilities and symptoms is questionable at best and, therefore, given little to no weight. This Administrative Law Judge finds, based on the medical evidence and objective, physical, and psychological findings, that Claimant is capable of the physical or mental activities required to perform any such position. 20 CFR 416.920(e).

Therefore, Claimant is found not disabled for purposes of the MA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision is hereby UPHeld.



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

Date Signed: **10/13/2014**

Date Mailed: **10/13/2014**

JWO / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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.

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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]