

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012828
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: November 06, 2014
County: GENESEE-DISTRICT 2

ADMINISTRATIVE LAW JUDGE: Susanne Harris

HEARING DECISION

Following the 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 November 6, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED].

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purpose of the State Disability Assistance (SDA) benefit program?

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On August 18, 2014, the Claimant applied for SDA.
2. On September 18, 2014, the Medical Review Team denied the Claimant's request.
3. On September 19, 2014, the Claimant submitted to the Department a request for hearing.
4. Born [REDACTED], the Claimant is 40 years old.
5. The Claimant completed education through high school, but was in special education for dyslexia. The Claimant cannot spell, but can do basic math.
6. The Claimant has employment experience (last worked 2005) at Arby's where he was fired because he couldn't move fast enough and lift boxes. In 2000 to the Claimant was a stock clerk at a grocery store and was fired from that job.

7. The Claimant suffers from social anxiety, PTSD, depression, memory issues, carpal tunnel syndrome, asthma, Lombardo, shoulder pain, hyperlipidemia, and a broken bone in his right foot.
8. The Claimant's limitations have lasted for 12 months or more.
9. The 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

MA-P 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 MA-P 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 Bridges Reference Manual (RFT).

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).

In this case, the Claimant indicated that he attempted suicide in January 2014 by slicing his wrists and laying in a pile of snow. The Claimant was hospitalized for three days. The Claimant testified that he suffers from suicidal thoughts and has had three suicide attempts in the last two years. The Claimant has a phobia of being in places with a lot of other people. The Claimant suffers from panic attacks in which his heart races. The Claimant has had depression and severe anxiety from the age of 14 at which time his mother molested him. The Claimant testified that the depression and anxiety worsened about six years ago.

The Claimant's treating psychiatrist reports that the Claimant is markedly limited in the following categories:

1. The ability to understand and remember detailed instructions.
2. The ability to carry out detailed instructions.
3. The ability to maintain attention and concentration for extended periods.
4. The ability to sustain an ordinary routine without supervision.
5. The ability to work in coordination with or proximity to others without being distracted by them.
6. The ability to complete a normal workday and workweek without interruptions from psychologically-based symptoms and consent to perform at a consistent pace without an unreasonable number and length of rest periods.
7. The ability to interact appropriately with the general public.
8. The ability to accept instructions and respond appropriately to criticism from supervisors.

The Claimant's treating psychiatrist indicates that the Claimant is also moderately limited in the following categories:

1. The ability to remember locations and work-like procedures.
2. The ability to understand and remember one or two-step instructions.
3. The ability to carry out simple, one of two-step instructions.
4. The ability to perform activities within a schedule, maintain regular attendance and be punctual within customary tolerances.
5. The ability to make simple work-related decisions.
6. The ability to ask simple questions or request assistance.
7. The ability to get along with coworkers or peers without distracting them or exhibiting behavioral extremes.
8. The ability to respond appropriately to change in the work setting.
9. The ability to be aware of normal hazards and take appropriate precautions.
10. The ability to set realistic goals or make plans independently of others.

The Claimant's treating psychiatrist indicates that the Claimant did not do well in school at all, failed grades, didn't graduate until the age of 20 and barely graduated then. The Claimant is anxious, impulsive, sometimes forgets appointments, doesn't hold jobs, gets

fired because of socially inappropriate behavior or not being able to follow instructions. The Claimant is emotionally stunted from years of unprocessed trauma and abuse.

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

Therefore, the 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 the Claimant is medically disabled as of August, 2014.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application dated August 18, 2014, if not done previously, to determine the Claimant's non-medical eligibility. The Department shall inform the Claimant of the determination in writing. A review of this case shall be set for December 2015.



Susanne Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

SEH / hj

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 48909-8139

cc:

