

**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.: 14-005610
Issue No.: 2009
Case No.: ██████████
Hearing Date: October 08, 2014
County: MACOMB-20 (WARREN)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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, telephone hearing was held on October 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. ██████████ Claimant's father also appeared as a witness and the Claimant's Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included ██████████ Hearing Facilitator, and ██████████ Eligibility Specialist also appeared.

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:

During the hearing, Claimant waived the time period for the issuance of this decision, in order to allow for the submission of additional records. The records were received, reviewed. This matter is now before the undersigned for a final determination.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA-P) 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. On November 1, 2013, Claimant submitted an application for public assistance seeking MA-P benefits and a retroactive application from August 2013.
2. On June 13, 2014, the Medical Review Team (MRT) found Claimant not disabled.
3. The Department sent Claimant a Notice of Case Action with an unknown date, which the Department did not provide, denying the application based on MRT's finding of no disability.
4. On September 25, 2014, the Department received Claimant's timely written request for hearing.
5. Claimant alleged mental disabling impairments due to paranoid schizophrenia.
6. At the time of hearing, Claimant was 36 years old with a May 4, 1978 birth date; she was 5'8" in height and weighed 130 pounds.
7. Claimant has a high school education and completed college, which took her 10 years.
8. Claimant has an employment history as a cashier at a party store and working as a fast food employee. The Claimant last worked in February 2014.
9. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

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.

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 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code,

Rules 400.3151 – 400.3180. 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.

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

MA-P and SDA benefits are available to disabled individuals. BEM 105 (January 2014), p. 1; BEM 260 (July 2014); BEM 261 (July 2013), p. 1. In order to receive MA benefits based upon disability, Claimant must be disabled as defined in Title XVI of the Social Security Act. 20 CFR 416.901. Disability for MA purposes 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).

In order to determine whether or not an individual is disabled, federal regulations require application of a five-step sequential evaluation process. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider (1) whether the individual is engaged in substantial gainful activity; (2) whether the individual's impairment is severe; (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) whether the individual has the residual functional capacity to perform past relevant work; and (5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4)

In general, the individual has the responsibility to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a) Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927(d).

Step One

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is substantial gainful activity (SGA), then the individual must be considered as not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant at the time of the hearing was not engaged in SGA activity during the period for which assistance might be available. Therefore, Claimant is not ineligible under step 1 and the analysis continues to step 2.

Step Two

Under step 2, the severity of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement, or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 12 months. 20 CFR 416.922.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). An impairment, or combination of impairments, is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a); see also *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. CFR 416.921(b).

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. A disability claim obviously lacking in medical merit may be dismissed. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). However, under the *de minimus* standard applied at step 2, impairment is not severe only if it is a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs* at 862.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). In the present case, Claimant alleges physical disability due to his mental condition. Claimant has been diagnosed with paranoid schizophrenia.

A summary of the medical evidence presented at the hearing follows.

The Claimant was admitted to the hospital for a 12 day stay on May 3, 2014 for delusions and the medical records noted that patient was guarded. This hospitalization was her second in a row. The first prior admission occurred due an overdose of valium. During this admission, the Claimant again took her mother's valium and some shots of vodka and threatened her parents that she would jump off the roof if they did not back off. Current symptoms included self-harm, psychosis, anxiety and mood instability. The Claimant was noted as medication compliant. The Claimant's behavior was described as aggressive. The Claimant was positive for nervous, anxious and delusions. Affect was not appropriate to setting, with poverty of thought content, and insight noted that patient does not fully appreciate clinical condition. During the hospital stay, Claimant had passive death wishes, unsafe behaviors and required use of restraint. On day five, the symptoms included psychosis and mood instability, and severity of symptoms were severe. The notes indicate patient was unkempt, preoccupied, focused on getting discharged, and minimizing everything. Claimant admitted praying a lot and expressed hope that God is going to change time back in reverse. Ultimately her symptoms were noted as moderate to severe, and discharge condition as fair.

The Claimant was admitted to the hospital on May 21, 2014 for a suicide attempt. When the Claimant arrived at the hospital she was very sad and hopeless, wants to sleep and feels like dying. She expressed that she did not want to live anymore. The admission notes indicate that the Claimant had just previously been admitted for another suicide attempt when she threatened to jump out of her window onto the roof. The Claimant was assessed as quite delusional and disoriented. The patient was having auditory hallucinations. The Claimant indicated that she had taken excess valium and excess lithium. Claimant had just recently been released from the Behavioral Center of Michigan. At the time, the Claimant was working as a cashier at a party store. A Mental Status Exam was attempted, noting stated mood is sad, affect is blunted, minimal in range, and appropriate thought content. Insight is limited; judgment is poor. The diagnosis after determining that Claimant could not participate in a mental status exam was schizoaffective disorder, bipolar type; rule out chronic paranoid schizophrenia. Severe and GAF score was 20. The treatment plan was to inpatient unit with one to one psychotherapy, and then after stabilized to outpatient program.

The Claimant was discharged on June 2, 2014. The discharge notes indicate multiple attempts at suicide including jumping in the road, taking overdose of drugs and hanging. At the time of discharge the patient was not suicidal. The bizarre thoughts expressed

were improving with worry about them coming back. At the time of discharge, the diagnosis was the same and the GAF score was 40.

An initial psychiatric examination was conducted on December 16, 2013 by the Claimant's community mental health provider. The examiner noted that the Claimant was being vague about her symptoms and thus consulted Claimant's parents. The parents detailed Claimant's behavior as withdrawn, talking to herself, excessive praying to God, fearing the FBI was out to get her, and that some man was going to kill her and the family. The Claimant was placed in treatment from October 29, 2013 through November 7, 2013 on an involuntary petition filed by the Claimant's father. Ultimately the Claimant was discharged from the program on November 20, 2013. The examiner noted that Claimant's insight was impaired. At the time of the exam, the examiner noted anxiety and nervousness with some fine tremors of the hand. Claimant denied hallucinations or paranoia as well as suicidal ideation. Impairment was noted in concentration and attention. Insight and judgment was impaired. The diagnosis was psychotic disorder and rule out schizophrenic disorder, paranoid; the GAF score was 45.

The Claimant was seen in the ER for medications and the report noted that she had been admitted October 29, 2013 and discharged November 7, 2013. On this admission, a psychiatric evaluation was made and the assessment diagnosis was schizophrenia paranoid type with a GAF of 45. The Claimant was deemed stable and discharged with new prescription.

The hospital admission records for October 29, 2013 through November 7, 2013 was due to her schizophrenia on discharge; the GAF score was 45 and prognosis was guarded. It appears the Claimant had previously been hospitalized from October 19, 2013 through October 28, 2013, at which time her prognosis was guarded and GAF 40. This prior admission was involuntary. On intake, the Claimant believed that after she drank some water, there was a tapeworm next to it. The psych evaluation notes the Claimant was acting very bizarre, writing notes and journals, very paranoid and refusing help, very psychotic and responding to internal stimuli. The GAF score after the exam was 40.

As summarized above, Claimant has presented medical evidence establishing that she does have some mental limitations on her ability to perform basic work activities. In consideration of the *de minimis* standard necessary to establish a severe impairment under step 2, the foregoing medical evidence is sufficient to establish that Claimant suffers from severe impairments as a result of her mental condition that have lasted or are expected to last for a continuous period of not less than 12 months. Therefore, Claimant has satisfied the requirements under step 2, and the analysis will proceed to step 3.

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the objective medical evidence presented of the diagnosed mental disorders of mood disorder and paranoid schizophrenia, Listing 12.00, which encompasses adult mental disorders, particularly Listing 12.03 (schizophrenic, paranoid and other psychotic disorders) was reviewed. The Listing requires the following conditions be met or their medical equivalent:

12.03 *Schizophrenic, paranoid and other psychotic disorders*: Characterized by the onset of psychotic features with deterioration from a previous level of functioning.

The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one or more of the following:

1. Delusions or hallucinations; or
2. Catatonic or other grossly disorganized behavior; or
3. Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:

- a. Blunt affect; or
- b. Flat affect; or
- c. Inappropriate affect;

OR

4. Emotional withdrawal and/or isolation;

AND

B. Resulting in at least two of the following:

1. Marked restriction of activities of daily living; or
2. Marked difficulties in maintaining social functioning; or
3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration;

OR

C. Medically documented history of a chronic schizophrenic, paranoid, or other psychotic disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

After a review of the medical evidence presented it is determined that the Claimant meets Listing 12.03 A 1, 3 and 4 and B 3 and 4 or the medical equivalent. As the Listing is deemed satisfied, it is determined that the listing is met with no further analysis required, and Claimant is determined is disabled at Step 3 with no further analysis required.

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 for purposes of the MA benefit program.

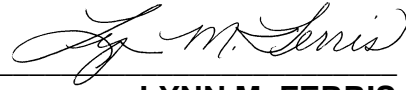
DECISION AND ORDER

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to initiate a review of the MA-P application dated November 1, 2013 and retroactive application for August 2013, if not done previously, to determine Claimant's non-medical eligibility.

2. A review of this case shall be set for February 2016.



LYNN M. FERRIS
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: 2/10/2015
Date Mailed: 2/10/2015
LMF/tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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