

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006695
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: September 09, 2014
County: KENT-DISTRICT 1

ADMINISTRATIVE LAW JUDGE: Susanne E. 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, an in-person hearing was held on September 9, 2014, from Grand Rapids, Michigan. Participants on behalf of the Claimant included [REDACTED] and his girlfriend, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED] and Family Independence Manager, [REDACTED].

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance (MA), Retro-MA and State Disability Assistance (SDA) benefit programs?

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 17, 2014, the Claimant applied for MA, Retro-MA and SDA.
2. On June 19, 2014, the Medical Review Team denied the Claimant's request.
3. On July 7, 2014, the Claimant submitted to the Department a request for hearing.
4. Born [REDACTED], the Claimant is 48 years old.
5. The Claimant completed education through high school.

6. The Claimant has employment experience (last worked 2007) as a used car salesperson. Previous to that he sold windows and worked in the mortgage business.
7. The Claimant suffers from hepatitis C, anxiety, ADHD, bipolar disorder, post-traumatic stress disorder and major back spasms.
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).

The Claimant testified to the following symptoms and abilities: hepatitis C which prevents him from taking medications for his psychiatric conditions, fears being around people, anxiety and panic attacks, feelings of hopelessness, right shoulder pain and weakness, no problems with walking, can sit an hour, can stand an hour, and he suffers from crying spells. The Claimant attempted to slowly kill himself by taking intravenous drugs from a known hepatitis C source; however, before his death could be effectuated he regained his will to live. Because he cannot take any medications for his psychiatric symptoms without affecting his hepatitis C condition, the Claimant's mental status is unstable. He has an inability to focus, a rush of ideas, and multiple fears from invalidating treatment that has tagged into his PTSD. The Psychological examination in the record indicates that the Claimant's pre-existing PTSD has shaken him to the core, even affecting his reality judgment. The Claimant's daily activities of living are dramatically impacted by his psychological condition.

The Psychological report in evidence indicates that the Claimant is a markedly impaired in his level of consciousness, his attention span/concentration, abstract thinking, intelligence and the Claimant has difficulty with focus and attention. The Claimant has an impaired ability to manage daily living activities and to make reasonable light decisions. The Claimant's affect was one of fear, anxiety, apprehension, depression, sadness, hopelessness, and helplessness. The Psychological report indicates that Claimant's quality of speech is loud, rapid, pressured and he perseverates, and this was observed directly by the Administrative Law Judge during the hearing.

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 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 October, 2013.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application dated January 17, 2014, 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 January, 2016.



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

Date Signed: **1/6/2015**

Date Mailed: **1/6/2015**

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:

