

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009492
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: January 07, 2015
County: INGHAM

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 January 7, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED] and her attorney, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED].

ISSUE

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

PROCEDURAL HISTORY

This matter was originally scheduled to be heard on November 13, 2014 at 1:00 PM. The Claimant's attorney did request an adjournment of the hearing and on October 29, 2014, Administrative Law Judge, Colleen Lack issued an Adjournment Order for In-Person Hearing. The matter was then rescheduled for January 7, 2015 at 3:00 PM and the hearing proceeded as rescheduled.

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 April 10, 2014, the Claimant applied for SDA.
2. On July 29, 2014, the Medical Review Team denied the Claimant's request.

3. On August 5, 2014, the Claimant submitted to the Department a request for hearing.
4. Born [REDACTED], the Claimant is 33 years old.
5. The Claimant completed education through high school and some college.
6. The Claimant has employment experience (last worked 2004) as a bartender where she was fired because she became too distracted with trying to set up the drinking glasses.
7. The Claimant suffers from obsessive-compulsive disorder (OCD), anxiety, personality disorder, major depressive disorder, allergies, crying spells, pelvic pain, interstitial cystitis and low thyroid.
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. The Claimant engages in ritualistic behavior.
10. The Claimant has significant limitations with walking and standing and can only sit for two hours at one time. The Claimant has significant limitations with lifting, squatting and bending at the waist.

CONCLUSIONS OF LAW

MA 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. 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: OCD and accompanying ritualistic behavior, panic attacks, suicidal thoughts though she has had no suicidal attempts, crying spells, she hears voices, suffers from insomnia, is angry at herself, has feelings of hopelessness and worthlessness, has a problem of being around too many people, has paranoid thoughts and racing thoughts of other people judging her. The Claimant testified that her hygiene is not good because she doesn't shower as much as she should, due to ritualistic behavior. The Claimant testified that she was told to lose some weight by her medical professionals so she has lost 100 pounds in the last year. The Claimant's daily activities of living are dramatically impacted by her psychological condition; she very rarely shops for groceries as she could get distracted by the items on the shelf. The Claimant does not cook, does not clean house and engages in no outside work or hobbies.

The Claimant was deferred for a psychological exam the report of which is included in the record. The Claimant was diagnosed with severe OCD; generalized anxiety disorder with social anxiety; and major depressive disorder, recurrent, severe without psychotic features. The State's psychologist indicated that the Claimant exhibited severe psychosocial stressors associated with severe financial problems, a severe psychiatric condition, very limited primary support system, social and interpersonal isolation, medical problems and chronic pain, and reduced functional capabilities.

There are two psychological examination reports in the record both completed by the same State's psychologist; the first evaluation occurred on December 10, 2012 and the second evaluation occurred on July 14, 2014. These reports established that the Claimant is deteriorating. The earlier examination report indicates that the Claimant was only mildly limited with her capabilities to understand, retain and follow simple instructions and to perform and complete simple tasks. It indicated that she appeared to have severely impaired capabilities to interact appropriately and effectively with co-workers and supervisors, and to adapt to changes in the work setting. At that time, the State's psychologist suspected that the Claimant's severe psychological condition would result in severely impaired capacity to do work-related activities and the Claimant received a GAF score of 49. A GAF score of 49 is indicative of serious symptoms or any serious impairment in social, occupational or school functioning. The exam concluded that the Claimant, though her prognosis was poor, would be able to manage her own funds.

The psychological evaluation completed in July 2014 indicates that the Claimant exhibits markedly limited capabilities to understand, retain, and follow simple instructions and to perform and complete simple tasks. She appears to have markedly limited capabilities to interact appropriately and effectively with co-workers and supervisors, and to adapt to changes in the work setting. It is suspected that the Claimant's severe psychological condition would result in markedly limited capacity to do work-related activities. The Claimant exhibited severe psychosocial stressors associated with severe financial limitations, severe social and interpersonal isolation, severe psychological difficulties and functional limitations. The State's psychologist believes that the Claimant's current psychological condition is sufficiently severe to warrant her receiving assistance in the management of her funds. The State's psychologist indicates that the Claimant's prognosis is very poor and she is in need of ongoing intensive psychological treatment. Her psychiatric records demonstrate an ongoing struggle with daily functioning.

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 12.06 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 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 April, 2014.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application dated April 10, 2014, if not done previously, to determine the Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for May, 2016.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/15/2015**

Date Mailed: **1/15/2015**

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:

