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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-013458
Issue No.: 2009
Case No.: [redacted]
Hearing Date: December 9, 2014
County: St. Clair

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 December 9, 2014, from Port Huron, Michigan. Participants on behalf of Claimant included Claimant, a witness [redacted] and Claimant's Authorized Representative [redacted] from [redacted] Participants on behalf of the Department of Human Services (Department) included [redacted].

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) benefit program?

FINDINGS OF FACT

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

1. Claimant applied for MA-P on May 16, 2014 with a request for retroactive coverage back to March 2014.

2. The Medical Review Team denied the application on October 1, 2014.

3. Claimant filed a request for hearing on July 1, 2014, regarding the MA denial.

4. An in person hearing was held on December 9, 2014.

5. Claimant is 5' 2" tall and weighs 100 pounds.

6. Claimant is 52 years of age.

7. Claimant's impairments have been medically diagnosed as fibromyalgia, thyroid problems, borderline personality disorder and depression.

8. Claimant has the following symptoms: pain, fatigue, insomnia, social isolation, memory and concentration problems, crying spells and suicide attempts.

9. Claimant completed 11th grade.

10. Claimant is able to read, write, and perform basic math skills.

11. Claimant is not working. Claimant last worked in July 2012 as a housekeeper.

12. Claimant lives alone.

13. Claimant testified that she cannot perform some household chores.

14. Claimant takes the following prescribed medications:

    a. Abilify
    b. Trazodone
    c. Levothyroxine
    d. Buspar
    e. klonopin

15. Claimant testified to the following physical limitations:

    i. Sitting: 10 minutes
    ii. Standing: 10 minutes
    iii. Walking: 1 block
    iv. Bend/stoop: some difficulty
    v. Lifting: 10 lbs.
    vi. Grip/grasp: no limitations

16. In a discharge summary dated [redacted], Claimant was found to have a GAF score of [redacted] with diagnosis of major depressive disorder-recurrent severe with psychotic features and borderline personality disorder.

17. In a psychiatric evaluation dated [redacted], Claimant was found to have a GAF score of [redacted]

18. In a Mental Residual Functional Capacity Assessment dated [redacted], Claimant was found to be marked limited in 8 of 20 categories, several of which are work related.

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 the MA-P program. 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.

Federal regulations require that the Department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

…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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is, or is not, disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Claimant is not working. Therefore, the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is the severity of the impairment. In order to qualify the impairment must be considered severe, which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, reaching, carrying, or handling;

2. Capacities for seeing, hearing, and speaking;

3. Understanding, carrying out, and remembering, simple instructions;

4. Use of judgment;

5. Responding appropriately to supervision, co-workers, and usual work situations; and

6. Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant meets listing 12.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of the listing. Claimant has other significant health problems that were not fully addressed in this decision because Claimant is found to meet a listing for a different impairment.

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 March 2014.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to:

1. Initiate a review of the application for MA and retro MA dated May 16, 2014, if not done previously, to determine Claimant's non-medical eligibility.

2. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for January 2016.

Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

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

AM/las

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]