

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014 17183
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: March 24, 20144
County: Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a three-way telephone hearing was held on March 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED], the Claimant Authorized Hearing Representative (AHR), also appeared. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED] Assistance Payments Supervisor.

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

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 30, 2013, Claimant applied for MA-P and retro MA-P to January 2013.
2. On August 22, 2013, the Medical Review Team denied Claimant's request.
3. On September 18, 2013, the Department sent the Claimant a Notice of Case Action. The Claimant's AHR submitted to the Department a timely request for hearing on December 9, 2013.
4. The State Hearing Review Team (SHRT) denied Claimant's request on February 19, 2014 and May 22, 2014.

5. At the time of the hearing, the Claimant was 59 years old, with a [REDACTED] birth date. The Claimant is now 60 years of age.
6. Claimant completed a GED education through high school. At the time of the hearing, Claimant was 5'11 and weighed 180 pounds.
7. Claimant has employment experience as an electrician for the Livonia public schools, and was self-employed as an electrician.
8. The Claimant has alleged physical disabling impairments including shortness of breath, Hepatitis C, and leg pain due to previous leg fracture.
9. The Claimant has alleged emotional impairments including anxiety attacks, and major depressive disorder.
10. Claimant's limitations have lasted for 12 months or more.
11. Claimant has significant limitations due to his emotional impairments.

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.

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.

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).

Claimant testified to the following symptoms and abilities: the Claimant testified credibly to anxiety attacks at least a couple times per day, he continues to have thoughts of suicide, his appetite is depressed due to stress, and has ongoing difficulty with concentration and difficulties with sleep. Some of his attempts at answers were also confused.

The Claimant has alleged emotional impairments due to major depressive disorder and anxiety, as well as alcohol abuse in remission. A summary of the Claimant's medical evidence follows.

The Claimant was seen for a psychiatric evaluation by his current treating community mental health provider. The exam was performed on January 14, 2014. At the examination, the Claimant indicated that he is currently living at a friend's home in Redford, Michigan and at that time was able to take care of activities of daily living and was working on fixing the house including painting and working on other "stuff." The examiner noted that the Claimant was unable to be specific about his symptoms

regarding his psychiatric difficulties. The Claimant was hospitalized at [REDACTED] in May of 2013 for taking [REDACTED] and indicating he was suicidal. The examiner also notes that the Claimant is very inconsistent. At the exam, the Claimant indicated he had not used alcohol for seven months, and attempts to get [REDACTED] on the street whenever he can. The Claimant's history indicates he has a lifelong substance abuse problem. The examination criteria were all within normal limits; it was noted that Claimant's concentration and attention was adequate, judgment was adequate without any suicidal aviation, and the Claimant was well oriented to person, place and time. The Claimant's GAF score was 50 and the diagnosis was major depressive disorder recurrent, unspecified, and active. Alcohol dependence was also diagnosed, but noted to be in remission, as was opioid dependence. The Claimant was prescribed N [REDACTED]

The Claimant was seen for a medication review in September 2013, at which time he indicated the medications were working so far; however, the current stressor of his mother dying has affected his belief that the medications were working. At the time of the review, he was noted as depressed, and the GAF score was 50.

On August 9, 2013, the Claimant was seen for a medication review and was brought to his mental health provider by a friend who indicated Claimant should be placed in an institution. At the time of the review, the Claimant was on [REDACTED] which he procures off the street. Once again, the GAF score was 50 with both alcohol dependence and the diagnosis was major depressive disorder recurrent, unspecified, and active, with primary diagnosis of major depressive disorder.

The Claimant was seen for a medication review in August of 2013. At that time, the Claimant was agitated over a large child support arrearage and [REDACTED] action. The Claimant indicated that he thought he might as well kill himself and that and that he had a plan to do so. At the time, his psychomotor activity was noted as slow, his affect was constricted, and his impulse control was impaired. At the time, the GAF score was still 50.

The Claimant was seen at the emergency room at the hospital on December 19, 2013, at which time he complained of high anxiety and shortness of breath with diffuse body pain. The Claimant was discharged after being prescribed [REDACTED], which Claimant stated helped his anxiety. At the time, a drug abuse urine screen was done and was negative.

The Claimant was admitted for a two-day stay in August 2013. The discharge diagnosis was suicidal ideation, depression alcohol abuse and tobacco abuse. At the time, the Claimant admitted to drinking a pint of alcohol per day, and his alcohol level was 47 on admission. No symptoms of alcohol withdrawal were noted. The Claimant was transferred to inpatient psych after a two-day stabilization. At the time of the admission, the Claimant was seen by a psychiatrist and received a diagnosis of depression and alcohol abuse dependence. At the time, the GAF score was 20. Concentration and

attention was decreased; insight and judgment was only partial with significant psychomotor retardation. The Claimant was prescribed in-patient psychiatric treatment when stable.

On May 10 2013, the Claimant was seen in the hospital for chest pain and was evaluated by a psychiatrist, having been transferred from [REDACTED] due to bradycardia. The notes indicate a history of suicidal ideation and anxiety attacks. The Claimant had taken an overdose of [REDACTED]. At the time, the diagnosis was major depression, recurrent with suicidal thoughts, and the GAF score was 35. The Claimant was admitted with suicide precautions. The Claimant was transferred back to [REDACTED] during the day and was not admitted.

The Claimant was admitted to the hospital and then released for psychiatric treatment on December 28, 2012. At that time, the Claimant admitted himself to the hospital and was transferred to common ground.

On December 26, 2012, the Claimant presented at the emergency room and had run out of his psych medication because he was taking too many at once, and took 5 to 6 tablets of her [REDACTED] because it made him feel better. The Claimant admitted to fantasizing about suicide but denied a specific plan. The patient presented with complaints of depression. At the time of the examination, the Claimant's thought processes were described as irrational.

On October 28, 2012, the Claimant was admitted to inpatient at [REDACTED] due to an overdose of [REDACTED], and then to common ground. While at common ground, the Claimant reported suicidal ideation and was hospitalized on October 29, 2012. The notes indicate he was at the hospital one year earlier. At the time of his admission interview, his hygiene and grooming were marginal; his affect was verbose with slowed speech, constricted affect, depressed mood with tangential thought processes. At the time of his admission, the Claimant stated that he had overdosed on Librium and if not admitted, he would kill himself. The diagnosis was mood disorder, rule out bipolar disorder. Benzodiazepine abuse rule out polysubstance abuse, the GAF score was 15. At the time of his admission, the prognosis was poor. Throughout his stay, the Claimant was withdrawn, only partially active in group activities, with poor hygiene, depression and thoughts of suicide. While in the hospital stay, the Claimant met with his case manager from the community mental health organization that he had been associating with for the past 10 months. At that time, he was described as constantly in crisis and drinking heavily with poor insight or motivation for treatment. The Claimant's stay lasted 11 days. The Claimant wanted to remain in treatment longer. At the time of this discharge, the GAF score was 50 and his condition at discharge was rated as fair.

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet Listing for 12.04 Affective Disorders. A. (a-c, e, f, and h); B. (2, and 4) and/or C. (1) or the medical 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 a listing.

Therefore, Claimant is found to be disabled for purposes of MA.

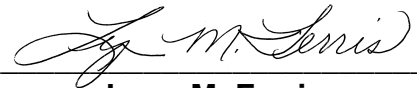
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of May 2012.

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 shall re-register and process the Claimant's application for MA-P dated April 30, 2013 and retro application for January 2013, and determine Claimant's non-medical eligibility, if it has not already done so.
2. The matter shall be reviewed in October 2015.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 22, 2014

Date Mailed: October 23, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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 48909-07322

LMF/tm

cc:

