

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201430176
Issue No(s): 2009; 4009
Case No.: [REDACTED]
Hearing Date: December 17, 2014
County: Shiawassee County DHS

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 December 17, 2014, from Owosso, Michigan. Participants on behalf of the Claimant included [REDACTED], his mother [REDACTED] and her boyfriend, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Long Term Care Specialist, [REDACTED] and Assistance Payments Supervisor, [REDACTED].

ISSUE

Whether the Department properly determined that the Claimant is not "disabled" for purposes of the Medical Assistance (MA) and State Disability Assistance (SDA) 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 May 6, 2013, the Claimant applied for MA and on December 6, 2013 the Claimant applied for SDA.
2. On February 11, 2014, the Medical Review Team denied the Claimant's request.
3. On March 3, 2014, the Claimant submitted to the Department a request for hearing.
4. On May 8, 2014, the State Hearing Review Team also denied the Claimant's request for disability.
5. Born [REDACTED], the Claimant is 37 years old.
6. The Claimant completed education up to the 10th grade and cannot read or write and can also not do basic math.

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7. The Claimant has employment experience (last worked 2000 or 2001) as a fast food worker.
8. The Claimant's limitations have lasted for 12 months or more.
9. The Claimant suffers from scoliosis, a deformed left shoulder and resulting nerve damage on his left side because of the left shoulder, somataform (both physical and mental), khyphsis, PTSD, bipolar disorder II, depression, personality disorder, ADHD, impulse control issues, memory and concentration problems and anxiety.
10. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and any use of his left side extremities.
11. 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.

PROCEDURAL HISTORY

This matter was originally scheduled to be heard on June 24, 2014 at 1 PM. On June 25, 2014, Executive Director of the Michigan Administrative Hearing System, Michael Zimmer, issued an order of dismissal based upon the Claimant's failure to appear at the hearing. On July 8, 2014, Supervising Administrative Law Judge, Kathleen H. Svoboda issued an Order Vacating the Dismissal and Order to Scheduling the Matter for Hearing. The hearing was rescheduled for August 5, 2014. On August 5, 2014, the Claimant's Authorized Hearing Representative requested an adjournment of the matter. On August 6, 2014, Administrative Law Judge, Aaron McClintic issued an Order Granting Adjournment. The hearing was again rescheduled for September 3, 2014 at 2 PM. On September 2, 2014, at the request of the Claimant's Authorized Hearing Representative, Administrative Law Judge Aaron McClintic again issued an Order Granting Adjournment. The hearing was again rescheduled for December 17, 2014 at 1 PM and it commenced at that time.

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

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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.

The Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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).

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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 objective psychiatric evidence in the record consists of a state ordered psychological evaluation as well as a psychiatric evaluation from Shiawassee County Community Mental Health Authority, where the Claimant has received treatment for many years. The evaluation of the Claimant's treating psychiatrist indicates that the Claimant has a long history of impulsive and aggressive behaviors associated with mood lability the Claimant was diagnosed with Mood Disorder Unspecified, ADHD-predominantly hyperactive and impulsive types, associated with polysubstance dependence, and borderline personality disorder. The Claimant has had several suicide attempts by overdose including at least one in prison in 2010. The Claimant has difficulty focusing. The Claimant denied any recent substance abuse. The Claimant was given a GAF score of 40, which is indicative of some impairment in reality testing or communication or major impairment in several areas, such as work or school, family relations, judgment, thinking or mood. The Claimant was diagnosed as having Borderline Personality Disorder; Impulse-Control Disorder NOS; Polysubstance Dependence in a Controlled Environment on Parole; Recorded History of Attention Deficit Hyperactivity Disorder, Combined-Type.

The Psychological Evaluation completed by the State's Psychologist indicates that the Claimant exhibited extremely impaired capabilities for being able to function within life. That evaluation indicates that the Claimant exhibits severely impaired capabilities to understand, retain, and follow simple instructions and to perform and complete simple tasks. The Claimant was found to have severely impaired capabilities to interact appropriately and effectively with co-workers and supervisors, and to adapt to changes in the work setting. The State's Psychologist suspects that the Claimant's multiple, severe psychological problems would result in a severely impaired capacity to do work-related activities. The Claimant exhibited severe psychosocial stressors associated with a severely decompensated psychological condition, severe social interpersonal deficits, severe financial problems and functional limitations. The States evaluation indicates that the Claimant suffers from bipolar disorder 1, most recent episode manic, severe, with intermittent psychotic features; Attention Deficit Hyperactivity Disorder, combined type, severe and Post Dramatic Stress Disorder. The Claimant did not appear to be capable of independent living and the State's psychologist indicates that the Claimant's prognosis is poor.

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

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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 May, 2013.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application dated May 6, 2013, if not done previously, to determine the Claimant's non-medical eligibility, particularly as the Claimant did not apply for SDA until December 6, 2013. The Department shall inform the Claimant of the determination in writing. A review of this case shall be set for January, 2016.



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

Date Signed: January 7, 2015

Date Mailed: January 7, 2015

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the Claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

