

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003363
Issue No(s): 2009; 4009
Case No.: [REDACTED]
Hearing Date: October 8, 2014
County: Clinton 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 October 8, 2014, from St. John's, Michigan. Participants on behalf of the Claimant included [REDACTED] and his worker from Mid-Michigan Community Health Department, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [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 March 20, 2014, the Claimant applied for MA, SDA and Retro-MA.
2. On May 16, 2014, the Medical Review Team denied the Claimant's request.
3. On May 30, 2014, the Claimant submitted to the Department a request for hearing.
4. The Claimant is [REDACTED] years old.
5. The Claimant completed education through high school.

6. The Claimant has employment experience and last worked in 2010 stocking shelves for [REDACTED].
7. The Claimant's limitations have lasted for 12 months or more.
8. The Claimant suffers from back pain, seizures, arthritis, legally blind in the right eye, schizoaffective disorder-bipolar type, generalized anxiety disorder out of post—traumatic stress, depressive personality disorder with negativistic (passive-aggressive) personality traits and dependent personality features, closed head injury, cervical spine degeneration with weakness and left side numbness.
9. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
10. 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

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.

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).

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).

In this case, the Claimant was deferred for a psychological evaluation conducted by the Department's Psychologist. That Psychologist submitted a psychological report dated [REDACTED] which is in evidence. That report indicates that the Claimant exhibited signs of schizoid impairments including significant depression and anxiety resulting from PTSD. The report reveals that there is evidence of significant physical impairments associated with TBI. The Claimant showed some inability to perform two-step instructions and he is moderately limited his ability to carry out detailed instructions. He is unable to perform work-related activities because of a seizure disorder. He is unable to maintain a schedule with punctuality and regular attendance. The State's Psychologist reported that it was questionable whether the Claimant could perform without having emotional outbursts and immediate needs to withdraw, likely disturbing others around him creating inefficiency in the workplace.

The Department's Psychologist concluded that the Claimant cannot maintain appropriate behavior and would definitely not interact well with the public. Furthermore, it was reported that the Claimant would have difficulty adapting to change and might not be able to recognize hazards or hazardous situations. The Claimant would be unable to use public transportation except for a taxi service such as the county transportation and he would be unable to travel in unfamiliar places. The Claimant does not set realistic goals and is completely unable to make plans. The Department's Psychologist concluded that the Claimant's multiple mental and physical limitations result in severely impaired capacity to perform work and work related activities. The Claimant's prognosis was poor and it is questionable whether or not the Claimant would be capable of managing his own funds. The Department's psychologist concluded that the Claimant would likely require a guardian. The Claimant was reported to have a GAF score of 48 which is indicative of serious symptoms or serious impairment in social, occupational or school 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 12.08 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 December, 2013.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application dated March 20, 2014, if not done previously, to determine the Claimant's non-medical eligibility. The Department shall inform the Claimant of the determination in writing. A review of this case shall be set for February, 2016.



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

Date Signed: 2/9/2015

Date Mailed: 2/9/2015

SEH/hj

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.

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

cc:

