

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007485
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: July 23, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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, a telephone hearing was held on July 23, 2015, from Lansing, Michigan. Participants on behalf of Claimant included her [REDACTED] Case Manager, [REDACTED] Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the State Disability Assistance (SDA) 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. On March 13, 2015, Claimant filed an application for SDA benefits alleging disability.
2. On April 28, 2015, the Medical Review Team (MRT) denied Claimant's application for SDA.
3. On May 1, 2015, 2015, the Department sent Claimant notice that her application for SDA had been denied.
4. On May 21, 2015, Claimant filed a request for a hearing to contest the Department's negative action.
5. Claimant had applied for Social Security disability benefits at the time of the hearing.

6. Claimant is a 48 year old woman whose birthday is [REDACTED]. Claimant is 5'8" tall and weighs 220 lbs.
7. Claimant has a driver's license and is able to drive.
8. Claimant has a high school education.
9. Claimant is not currently working. Claimant last worked in July, 2013.
10. Claimant alleges disability on the basis of bipolar disorder with psychotic behavior, major depressive disorder, posttraumatic stress disorder, chronic obstructive pulmonary disease, hypertension, chronic thrombocytosis, and mild leukocytosis with neutrophilia.
11. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.
12. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and 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 Department of Human Services) 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.

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

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 exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI 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.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

"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. [SDA = 90 day duration].

[As Judge] We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. 20 CFR 416.927(e).

In January, 2015, Claimant presented to the emergency department and was diagnosed with depression and suicidal and homicidal ideation. She was transferred and admitted to a psychiatric facility.

Claimant's treating psychiatrist submitted a letter dated February 4, 2015, indicating Claimant was recently hospitalized for her psychiatric issues. The psychiatrist also noted Claimant is on medication for depression and anxiety and going to Community Mental Health. The psychiatrist opined that Claimant is unable to work at this time due to her continuing mental health issues.

In May, 2015, Claimant was again admitted to the same psychiatric facility. Claimant was diagnosed with Bipolar Disorder with psychotic features, and posttraumatic stress disorder. Her GAF was [REDACTED]

According to the DSM-IV, 4th Ed., a GAF of [REDACTED] indicates serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job, cannot work).

Claimant's Case Manager from [REDACTED] credibly testified that she has been working with Claimant and has been unable to find Claimant eligible or able to work. The Case Manager explained that Claimant's services were increased after having panic attacks after attending the women's trauma group.

The credible testimony and medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. Moreover, Claimant's treating physician opined that Claimant is unable to be gainfully employed at this time due to her mental health issues. As such, the Department's denial of SDA pursuant to Claimant's March 13, 2015, SDA application cannot be upheld.

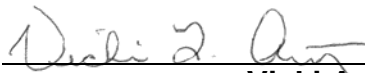
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department erred in determining Claimant is not currently disabled for MA/Retro-MA and SDA eligibility purposes.

Accordingly, the Department's decision is **REVERSED**, and it is ORDERED that:

1. The Department shall process Claimant's March 13, 2015, SDA application, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Claimant's medical condition for improvement in August, 2016, unless her Social Security Administration disability status is approved by that time.
3. The Department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.

It is SO ORDERED.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Signed: **8/17/2015**

Date Mailed: **8/17/2015**

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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:

