

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-011695
Issue No.: 2009; 4009
Agency Case No.: [REDACTED]
Hearing Date: August 25, 2015
County: Jackson

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 August 25, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED] and [REDACTED], Case Manager from Recovery Technology, a Community Mental Health Provider. Participants on behalf of the Department of Health and Human Services (Department) included General Services Program Manager [REDACTED] and Eligibility Specialist [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 February 11, 2015, the Claimant applied for MA, SDA and Retro-MA.
2. On June 18, 2015, the Medical Review Team denied the Claimant's request.
3. On July 1, 2015, the Claimant submitted to the Department a request for hearing.
4. The Claimant is [REDACTED] years old.
5. The Claimant completed education through eighth grade. The Claimant does not understand what he reads and cannot compute basic math.

6. The Claimant has no employment experience.
7. The Claimant's limitations have lasted for 12 months or more.
8. The Claimant suffers from carpal tunnel, diabetes mellitus, bipolar one disorder, antisocial personality disorder, dyslexia, liver problems, alcoholism, degenerative neck disease, seizures, asthma, hyperlipidemia, dysphasia, PTSD and general anxiety disorder.
9. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
10. The Claimant also has significant limitations with comprehension, confusion, memory, persistence and pace.

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. 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).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b).

Secondly, the individual must have a medically determinable impairment that is "severe" or a combination of impairments that is "severe." 20 CFR 404.1520(c). An impairment or combination of impairments is "severe" within the meaning of regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. 20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p. If the claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

The third step in the process is to assess whether the impairment or combination of impairments meets a Social Security listing. If the impairment or combination of impairments meets or is the medically equivalent of a listed impairment as set forth in Appendix 1 and meets the durational requirements of 20 CFR 404.1509, the individual is considered disabled. If it does not, the analysis proceeds to the next step.

In the present case, the Claimant has been diagnosed with carpal tunnel, diabetes mellitus, bipolar 1 disorder, antisocial personality disorder, dyslexia, liver problems, alcoholism, degenerative neck disease, seizures, asthma, hyperlipidemia, dysphasia, PTSD and general anxiety disorder. The Claimant has a number of symptoms and limitations, as cited above, as a result of these conditions.

The objective evidence in the record the record includes a comprehensive mental status examination. The overall appraisal of the ability is that the Claimant is not able to manage his money or his bills. The Claimant cannot make change. The Claimant was diagnosed with Major Depressive Disorder, recurrent, severe; Generalized Anxiety Disorder; Tobacco Use Disorder, mild; Alcohol Use Disorder, history of severe, episodic with current, occasional use; obstructive sleep apnea hypopnea by history. The following diagnoses should also be ruled out: Borderline Intellectual Functioning; Specific Learning Disorder with impairment in reading; Specific Learning Disorder with impairment in mathematics; Specific Learning Disorder with impairment in written expression. The Claimant's prognosis is guarded.

The Claimant's testimony and the information contained in the file indicate that the Claimant has a history of alcohol abuse. Applicable to this hearing is the Drug Abuse and Alcohol (DA&A) Legislation, Public Law 104-121, Section 105(b)(1), 110 STAT. 853, 42 USC 423(d)(2)(C), 1382(c)(a)(3)(J) Supplement Five 1999. The law indicates that individuals are not eligible and/or are not disabled where drug addiction or alcoholism is a contributing factor material to the determination of disability. After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge finds that Claimant meets the statutory disability definition under the authority of the DA&A Legislation because his substance abuse is not material to his alleged impairment and alleged disability.

While the Claimant's alcohol abuse may have been material to his disability in the past, this Administrative Law Judge finds that that is no longer the case. Testimony from the Claimant's case manager at the hearing indicates that even when the Claimant is sober for a prolonged period of time, specifically 90 days, he still remains severely manic and continues to have concentration, comprehension and memory issues to the point he loses his medications. The Claimant's case manager indicates that the Claimant's memory is so bad that he had to call her six times about the hearing, on the date of the hearing. Therefore, this Administrative Law Judge concludes that the Claimant history of alcohol abuse does not bar his claim of disability.

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 12.02 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 November, 2014.

Accordingly, the Department's decision is hereby **REVERSED**; and the Department is ORDERED to initiate a review of the application dated February 11, 2015, if not done previously, to determine 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 September, 2016.



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

Date Mailed: **9/4/2015**

SEH/jaf

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:

