

**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.: 15-018370  
Issue No.: 4009  
Agency Case No.: [REDACTED]  
Hearing Date: January 19, 2016  
County: KENT

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**HEARING DECISION**

**PROCEDURAL HISTORY**

Following the Petitioner'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 January 19, 2016, from Lansing, Michigan. The Petitioner, [REDACTED] appeared and testified. His daughter, [REDACTED] and his witness, [REDACTED] also appeared and testified. The Department was represented by Assistance Payments Worker, [REDACTED] and Family Independence Manager, [REDACTED]. At the conclusion of the hearing, this Administrative Law Judge extended the record for 30 days to receive the Petitioner's additional, medical evidence. The record closed and nothing additional was received. Therefore, this Administrative Law Judge proceeds to a decision on the record as it existed at the time of hearing.

**ISSUE**

Whether the Department properly determined that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit 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 7, 2015, the Petitioner applied for SDA.
2. On August 3, 2015, the Medical Review Team denied the Petitioner's request.
3. On August 6, 2015, the Petitioner submitted to the Department a request for hearing.

4. The Petitioner is ■ years old.
5. The Petitioner completed education through the 10<sup>th</sup> grade.
6. The Petitioner has no employment experience and has been incarcerated for over ■ years.
7. The Petitioner's limitations have lasted for 12 months or more.
8. The Petitioner suffers from paranoid personality disorder, intellectual disability, alcohol use disorder, cocaine use disorder, laryngeal cancer, insomnia, lumbar dysfunction, hepatitis C and back and foot pain.
9. The Petitioner has significant limitations on physical activities involving standing, walking, bending, lifting, and squatting.
10. The Petitioner 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. The Petitioner cannot read and write and do basic math.

#### **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 objective, psychiatric evidence in the record contains a psychological assessment completed by the Department's psychologist. The Department psychologist diagnosed the Petitioner with an intellectual disability, moderate as well as paranoid personality disorder. The Petitioner scored a 65 on the Wide Range Achievement Test 4 (WRAT 4). The Petitioner was also administered the Wechsler Adult Intelligence Scale-IV and obtained a Verbal Comprehension Index 56. The Department's Psychologist indicates that the Petitioner's adaptive capacity is quite low. The Petitioner is impaired in abstract thinking, calculations, information and memory.

In this case, this Administrative Law Judge finds that the Petitioner may be considered presently disabled at the third step. The Petitioner appears to meet listing 12.05 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Petitioner's testimony and the medical documentation support the finding that the Petitioner meets the requirements of a listing.

Therefore, the Petitioner 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 Petitioner is medically disabled as of April, 2015.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application dated April 7, 2015, if not done previously, to determine the Petitioner's non-medical eligibility. The Department shall inform the Petitioner of the determination in writing. A review of this case shall be set for February, 2017.



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

Date Mailed: **2/16/2016**

SEH/nr

**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:

