STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

[FILED: October 14, 2014]

WILLIAM GELINAS	:	
	:	**C.A. No. PC-13-5928**
V.	:	
	:	
R.I. EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES	:	

DECISION

PROCACCINI, J. Before this Court is an appeal from a decision of the Rhode Island Department of Human Services (DHS), denying Medical Assistance (MA) disability benefits to Appellant William Gelinas (Appellant). Jurisdiction is pursuant to G.L. 1956 § 42-35-15.

I

Facts and Travel

On May 23, 2013, Appellant submitted an Application for Medical Assistance (Application) to DHS (DHS R. Ex. 4, AP-65, July 19, 2013).[1] The Appellant, who is fifty-two years old, possesses a GED and was a foundry worker for approximately twenty years. (DHS R. Ex. 6, AP-70, May 23, 2013.) His medical records reveal that he has degenerative disc disease and moderate facet joint osteoarthritis at L5/S1. (DHS R. Ex. 9, X-Ray Report.) His medical records additionally reveal that Appellant has been diagnosed with a mood disorder with depressive features due to a general medical condition. (DHS R. Ex. 7, Thundermist Medical Records.)

[1] The record reveals that Appellant also had applied for Social Security Disability Benefits and Supplemental Security Income (SSI) from the Social Security Administration. Two medical reports from the proceeding are part of the instant record.

The Medical Assistance Review Team (MART)[2] reviewed Appellant's Application and issued its decision that he was not disabled on July 26, 2013. (DHS R. Ex. 3, MA Letter of Denial.) MART also notified Appellant of his right to appeal and his right to have legal counsel. Id. On July 29, 2013, Appellant timely appealed and a duly noticed hearing was conducted on November 7, 2013. (DHS R. Ex. 2, Hearing Appointment Letter.) Hearing Officer Carol J. Ouellette (Hearing Officer) conducted the hearing.

At the hearing, Appellant appeared pro se, and he offered into evidence:

- Physician Report (Agency Form MA-63), dated May 27, 2013, and signed by Jennifer Hopgood, FNP (Family Nurse Practitioner) (DHS R. Ex. 5.)
- Physician Report (Agency Form MA-63), dated October 7, 2013, and signed by Eric Paesano, LICSW (Licensed Social Worker) on October 7, 2013 and by Sapna Chowdhry, M.D. on October 9, 2013 (DHS R. Ex.12.)
- Information for Determination of Disability (Agency Form AP-70), dated May 23, 2013, and signed by Appellant (DHS R. Ex. 6.)
- Medical records from Ms. Hopgood, Mr. Paesano, and Jennifer Breslaw[3], PMHNP (Psychiatric and Mental Health Nurse Practitioner) (DHS R. Ex. 7.)
- Rhode Island Medical Imaging X-Ray Report, dated April 1, 2013. (DHS R. Ex. 9.)
- Consultative examination by J. Scott Toder, M.D., dated April 8, 2013. (DHS R. Ex. 8.)
- Consultative examination by psychologist Wendy Schwartz, Ph.D. (DHS R. Ex. 10.)

The Appellant, pro se, testified at the hearing. Sandra Brohen, a social worker and member of the MART, testified on behalf of DHS.

The Report of Jennifer Hopgood, FNP

Ms. Hopgood became Appellant's primary care provider in April of 2013, and she diagnosed him with back pain and a mood disorder with depressive features due to his general medical condition. (DHS R. Ex. 7, Thundermist Medical Records.) Ms. Hopgood suggested that

[2] Under the federally mandated Medicaid systems, DHS is required to maintain a MART, which consists of a team of professionals responsible for determining whether an applicant qualifies as disabled so as to be qualified to receive Medicaid benefits. 42 C.F.R. § 435.541(f).
[3] Ms. Hopgood, Mr. Paesano, and Ms. Breslaw all are employed by Thundermist Health Center.

Appellant take Motrin for his back pain, but he told her he could not afford it. Id. The Appellant told Ms. Hopgood that he had been living day-to-day with the pain, but that it prevented him from being able to work and that his back pain worsened with bad weather. Id.

Ms. Hopgood reported that Appellant suffered from a musculoskeletal disorder and a mental disorder. (DHS R., Ex. 5, MA-63, May 27, 2013.) She stated that Appellant's back pain originated in 1997, and that an x-ray of his spine showed severe arthritis. Id. Apparently, however, an MRI could not be conducted due to the presence of metal shrapnel in Appellant's eyes. Id. Additionally, Ms. Hopgood noted that Appellant reported that his back pain was worsened as a result of sleeping on the floor of the shelter where he was staying. Id. Ms. Hopgood documented Appellant's mood disorder, and noted that she had referred him for behavioral health treatment. Id.

Ms. Hopgood reported that, on any given eight-hour workday, (1) Appellant was able to walk and stand for less than two hours; (2) that he could sit four out of eight hours; (3) that he could reach occasionally; (4) that he could bend occasionally; (5) that he was able to lift/carry up to five pounds; (6) that he could bend/stoop occasionally as needed; and (7) that he could push/pull occasionally. Id. With respect to Appellant's mental activities, Ms. Hopgood found that his ability to remember and carry out simple instructions was slightly limited, and that his ability to maintain attention and concentration in order to complete tasks in a timely manner was moderately limited. Id. She additionally reported that Appellant was moderately limited in his ability to (a) make simple work-related decisions; (b) to interact appropriately with co-workers and supervisors; (c) work at a consistent pace without extraordinary supervision; and (d) respond appropriately to changes in work routine or environment. Id.

The Report of Eric Paesano, LICSW

Mr. Paesano began treating Appellant in May of 2013 as part of his behavioral health follow-up. (DHS R. Ex. 7, Thundermist Medical Records.) Mr. Paesano found Appellant to be suffering from suicide ideation, but without a plan. Id. Later in the year, however, Appellant was no longer suffering from suicide ideation. Id. Mr. Paesano found that Appellant's speech was articulate, his memory was not impaired, his attention was focused, and his insight and judgment were good; however, his self-esteem was low. Id.

Mr. Paesano reported that Appellant suffered from a mood disorder with depressive features due to his general medical condition, including depression, sadness, hopelessness, insomnia, lack of interest. (DHS R. Ex. 12, MA-63, Oct. 9, 2013.) He also reported that Appellant suffered from body aches and pain. Id. Although Mr. Paesano did not complete the form section regarding physical activities, he did fill out the mental activities section. Id. There he reported Appellant to be moderately limited in his ability to remember and carry out simple instructions; maintain attention/concentration necessary to complete tasks in a timely manner; make simple work-related decisions; interact appropriately with co-workers and supervisors; and respond appropriately to changes in work routine or environment. Id. Mr. Paesano also reported that Appellant was only slightly limited in his ability to work at a consistent pace without extraordinary supervision. Id. Mr. Paesano concluded his report with a general comment: "Has severe physical limitations affecting mood. Unable to work 6-12 months." Id.

The Report of Jennifer Breslaw, PMHNP

The Appellant treated with Jennifer Breslaw, PMHNP, for further diagnosis. Ms. Breslaw diagnosed Appellant with an anxiety disorder and an adjustment disorder (unspecified). (DHS Ex. 7, Thundermist Medical Records.) She prescribed a trial sample of the drug Cymbalta

for the Appellant. Id. However, the trial sample of the prescription only would last for six weeks; at that point, Appellant would need to apply for prescription assistance to pay for the drug. Id.

The R.I. Medical Imaging X-Ray

The x-ray report, submitted to DHS, stated that Appellant suffered from "Degenerative disc disease and moderate facet joint osteoarthritis at L5/S1. No fracture or malalignment." (DHS R. Ex. 9, X-Ray Report.)

The Report of J. Scott Toder, M.D.

Dr. Toder evaluated Appellant at the request of Disability Determination Services as part of his application for Social Security Disability Benefits. In his evaluation, Dr. Toder indicated that Appellant was suffering from back, neck, and left shoulder pain along with upper extremity paraesthesias. (DHS R. Ex. 8, Toder Consultative Report.) Dr. Toder noted that Appellant was self-medicating with both ibuprofen and marijuana to help with the pain. Id. He also indicated that Appellant appeared well nourished and not in acute distress. Id. At the time of his examination, Appellant was able to bend over and take off his shoes without issue; he also was able to get out of a chair without difficulty. Id. Dr. Toder indicated that Appellant's straight leg raising, reflexes, sensation, and motor exam were intact in both upper and lower extremities, but that Appellant did have slightly decreased cervical rotation to the left, with left trapezius area discomfort. Id. According to Dr. Toder, Appellant displayed no evidence of swollen, warmth, or erythematous joints, as well as no evidence of atrophy. Id.

The Report of Wendy Schwartz, Ph.D.

Dr. Schwartz, a psychologist, evaluated Appellant at the request of Disability Determination Services as part of his application for Social Security Disability Benefits. In her

evaluation, Dr. Schwartz found that Appellant presented with symptoms consistent with major depressive disorder and recurrent, moderate panic disorder without agoraphobia. (DHS R. Ex. 10, Schwartz Consultative Report.) Dr. Schwartz concluded that Appellant's limitations were due to physical and emotional issues. Id. As to his occupational ability, Dr. Schwartz found that Appellant's ability to respond appropriately to work pressures, colleagues, and supervisors was moderately-to-severely impaired. Id. She also found that Appellant would most likely be mildly guarded when interacting with co-workers, and she further observed that Appellant demonstrated limited coping skills. Id. Dr. Schwartz recommended that Appellant should be provided medical and dental coverage, that there should be a full review of his medical and psychiatric records, and that there should be a psychiatric referral to determine how psychotherapeutic intervention might aid him. Id.

Sandra Brohen's Testimony

At the Administrative Hearing on November 7, 2013, Ms. Brohen addressed DHS policy manual section 0352.15, which determines eligibility based on disability, and she explained that MART applies the five-step sequential evaluation process followed by the Social Security Administration in determining an applicant's eligibility for SSI benefits. (DHS R. Ex. 15, Admin. Hr'g Tr. at 4-5.) With respect to the first-step—whether the applicant is employed—Ms. Brohen noted that Appellant already had admitted that he was presently unemployed. Id. at 5.

Ms. Brohen then addressed step two: whether applicant has a severe impairment. She stated that, consistent with the requirements of step two, MART reviewed Appellant's medical records to determine if his impairment was severe. Id. She stated that the medical evidence did not support a finding of a medically determined impairment that would limit function, meet the

durational requirements,[4] or have residual deficits when following a prescribed treatment. Id. at 7-8.

In support of her findings, Ms. Brohen testified that Appellant's Information for Determination of Disability form (AP-70) indicated he had been employed after his 1997 injury, even though he told Dr. Schwartz he had not been employed since that injury. Id. at 6-7. She reported that his mental status exam was normal, despite his mood disorder, and his ability to understand, remember, and follow directions was "only mildly, mildly, impaired." Id. at 7. Ms. Brohen noted that, as of April 16, 2013, Appellant had full range of motion in all joints and no swelling or deformities. Id. She also pointed out that the physician reports submitted by Appellant, including the consultative exam with Dr. Tober (sic), the consultative exam with Dr. Schwartz, and his Thundermist medical records, did not support a finding of disability. Id. at 6-7.

Consequently, Ms. Brohen concluded that Appellant did not meet the step-two severity requirement, and thus, was not disabled. Id. at 7-8. As a result of this conclusion, Ms. Brohen ended her five-step analysis at this point.

Appellant's Application and Testimony

In his Information for Determination of Disability form, Appellant indicated he was no longer working. (DHS R. Ex. 6, AP-70, May 23, 2013.) He stated that he was last employed in June of 2012, and that typically, he worked as a laborer which required eight hours of walking, standing, and bending per day. Id. His previous employment as a foundry worker required lifting and carrying fifty to seventy pounds on a regular basis. Id. The Appellant also submitted his work history into evidence: from 1988-2000 he worked as a molder at a foundry; from 2000-

[4] An impairment will satisfy this requirement if has lasted, or must be expected to last, for a continuous period of at least 12 months. See 20 C.F.R. § 416.909.

2010, he performed yard work; in 2009 he worked as a grocery store stocker; and in 2012 he worked as an insulation laborer. Id. As a laborer, Appellant had used all types of power tools at his previous employment, but he had no technical knowledge or skills, never wrote or completed reports, and never had supervisory responsibilities. Id. The Appellant also indicated on the form that he had applied for Social Security Disability Benefits and Supplemental Security Income.[5] Id. He summarized his situation: "I have back injury's [sic] that keep me from the hard labor jobs I always did. And a felony conviction that stop [sic] me from being hired anywhere else." Id.

At the hearing, Appellant testified how his injury had occurred at the foundry and then gradually deteriorated: "it started as a small pain that grew, and then it got to the point where I couldn't do my job." (DHS R. Ex. 15, Admin. Hr'g Tr. at 9.) He also explained that after leaving the foundry, he was able to alleviate his symptoms through walking. Id. at 10. When asked if he could lift ten pounds or less, Appellant stated, "I could, I could, walk around with mail and stuff, I'm sure." Id. at 12. Appellant also testified that he could sit for a couple hours at a time, but that he would then need to get up and move around. Id. at 13. He further testified that he "got good with pain," and that he took long walks and used ibuprofen to manage his pain. Id. at 13-14.

The Appellant further testified that he was still being treated at Thundermist, seeing Mr. Paesano approximately once a month. Id. at 16-17. However, when asked if he wanted to introduce any updated records from Thundermist as part of his appeal, Appellant responded in the negative, stating that he had not received any new prescriptions or incurred any new injuries.

[5] During the course of the hearing, it was established that Appellant had applied for Social Security Disability Benefits, but that the application had been denied and that his attorney has filed an appeal for reconsideration of that case. (DHS R. Ex. 15, Admin. Hr'g Tr. at 27.)

Id. at 17-18. He also reported that he was now self-medicating with coffee instead of Cymbalta. Id. at 18.

When asked about the finding of some mild mental impairment in his evaluations, Appellant stated, "I don't absorb like I used to" and that he was drunk for twenty-five years, but he stopped in 2001 and now gets along better with people. Id. 19, 21.

The Hearing Officer then asked Appellant whether he had been treated anywhere else in the last year that was not included in his records, to which Appellant responded, ". . . that's my whole thing." Id. at 24. Throughout the hearing, Appellant emphasized that no one would hire him; however, the Hearing Officer responded that his appeal only pertains to alleged medical errors made by MART, and the economy and job market could not be part of his disability determination. Id. at 12, 14. The Appellant also expressed concern that he might have residual effects from drinking for so many years, that his job has been made obsolete by machinery, and that his status as a convicted felon affects his ability to get a job. Id. at 26-27.

The Hearing Officer's Decision

After reviewing the record and exhibits, the Hearing Officer issued her decision on November 12, 2013, finding that Appellant was not disabled. In that decision, the Hearing Officer found that the evidence established mild degenerative disc disease and moderate degenerative osteoarthritis. (DHS R. Ex. 14, Admin. Hr'g Decision at 8.) She further found that Appellant had a motor strength of 5/5 in all extremities; normal gait; good flexion; no tenderness; and no abnormal curvature. Id. In addition, the Hearing Officer found that Appellant relied on conservative pain remedies, and that he had not been prescribed physical therapy, chiropractic manipulation, epidural steroid injections, or any other stronger pain remedies. Id.

As to Appellant's mood disorder and depression, the Hearing Officer found that he was alert, oriented, articulate, focused, and had no apparent impairment of memory. Id. She noted that, although his treating source had prescribed medication, Appellant had testified that he saw no measurable improvement from this medication. Id.

In reviewing the five-step sequential process for determining whether an individual is disabled, the Hearing Officer found Appellant not disabled at step five and that he was capable of performing light work. Id. at 13.

On November 21, 2013, Appellant filed a timely notice of appeal to this Court. The Appellant alleges that the Hearing Officer applied incorrect legal standards in her assessment of the documentary medical opinions as well as her assessment of his pain and symptoms. He also asserts that the Hearing Officer's Residual Functional Capacity (RFC) determination was in violation of federal regulatory provisions, and that the decision was so deficient in findings as to preclude judicial review.

In response, the DHS contends that the decision should be upheld because the Hearing Officer applied the proper legal standards in adherence to the Administrative Procedures Act (APA); and that she gave the required consideration and weight to medical opinions and to pain and symptoms. It further maintains that the Hearing Officer's RFC finding conformed with federal regulations.

II

Standard of Review

The court reviews a contested administrative decision pursuant to the APA, § 42-35-15(g). This section provides that:

> "The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court

> may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
> (1) In violation of constitutional or statutory provisions;
> (2) In excess of the statutory authority of the agency;
> (3) Made upon unlawful procedure;
> (4) Affected by other error or law;
> (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
> (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." Sec. 42-35-15(g).

Review under the APA is de novo. See Johnston Ambulatory Surgical Assocs., Ltd. v. Nolan, 755 A.2d 799, 805 (R.I. 2000). "'Although this Court affords the factual findings of an administrative agency great deference, questions of law—including statutory interpretation—are reviewed de novo.'" Heritage Healthcare Servs., Inc. v. Marques, 14 A.3d 932, 936 (R.I. 2011) (quoting Iselin v. Retirement Bd. of the Employees' Retirement Sys. of R.I., 943 A.2d 1045, 1049 (R.I. 2008)). The ultimate goal of such review "is to give effect to the purpose of the act as intended by the legislature." Stebbins v. Wells, 818 A.2d 711, 715 (R.I. 2003). However, great deference is accorded to an agency's interpretation of "'a statute whose administration and enforcement have been entrusted to the agency.'" Town of Richmond v. Rhode Island Dep't of Envtl. Mgmt., 941 A.2d 151, 157 (R.I. 2008) (quoting Murray v. McWalters, 868 A.2d 659, 662 (R.I. 2005)).

The Court is limited to "an examination of the certified record to determine if there is any legally competent evidence therein to support the agency's decision." Barrington Sch. Comm. v. R.I. State Labor Relations Bd., 608 A.2d 1126, 1138 (R.I. 1992). Substantial evidence is "relevant evidence that a reasonable mind might accept as adequate to support a conclusion [and] means an amount more than a scintilla but less than a preponderance." Town of Burrillville v. R.I. State Labor Relations Bd., 921 A.2d 113, 118 (R.I. 2007) (citations omitted). The Superior

Court shall not, "on questions of fact, substitute its judgment for that of the agency whose action is under review" regardless of whether the Court is inclined to view the evidence differently and draw inferences not in accord with those of the agency. Rhode Island Pub. Telecomms. Auth. v. R.I. State Labor Relations Bd., 650 A.2d 479, 485 (R.I. 1994) (citations omitted). Accordingly, the Court may '"reverse factual conclusions of administrative agencies only when they are totally devoid of competent evidentiary support in the record."' Baker v. Dep't of Emp't and Training Bd. of Review, 637 A.2d 360, 362 (R.I. 1994) (quoting Milardo v. Coastal Res. Mgmt. Council, 434 A.2d 266, 272 (R.I. 1981)).

III

Analysis

The Appellant argues that the Hearing Officer applied incorrect legal standards in her assessment of the documentary medical evidence and in her assessment of his pain and symptoms. Furthermore, he asserts that the Hearing Officer made a RFC determination that violated the federal guidelines.

DHS and SSI

The medical assistance program is administered by the State of Rhode Island under G.L. 1956 (1977 Reenactment) §§ 40-8-1 to 14 and title 19 of the Social Security Act, 42 U.S.C.A. §§ 1396-1397. The program is designed to provide publicly funded health coverage to "persons with disabilities who otherwise cannot afford or obtain the services and supports they need to live safe and healthy lives." R.I. Admin. Code 39-3:0300.01. The DHS is the agency in Rhode Island that manages all federal and state public assistance, including the MA program. Sec. 42-12-4. Federal law requires DHS to "establish income and resource rules, regulations, and limits in accordance with Title XIX of the federal Social Security Act, 42 U.S.C. § 1396 et seq." Sec.

40-8-3. Therefore, DHS must abide by the federal definitions and guidelines when defining the term "disabled" and creating eligibility requirements. See 20 C.F.R. § 416.901-998 (these regulations cover all definitions of terms, tests, weight to be given to evidence, etc.).

The policy regarding eligibility for MA is outlined in the DHS Manual and closely follows the federal provisions. The manual states:

> "For any adult to be eligible for Medical Assistance because of a disability, he/she must be unable 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 twelve (12) months." (DHS Manual 0352.15.)

The determination of eligibility must be based on a five-step evaluation process in order "to assure that disability reviews are conducted with uniformity." DHS Manual 0352.15.10. This is the same five-step inquiry set forth in 20 C.F.R. § 416.920:

> "(i) At the first step, we consider your work activity, if any. If you are doing substantial gainful activity, we will find that you are not disabled. (See paragraph (b) of this section.)
> (ii) At the second step, we consider the medical severity of your impairment(s). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in § 416.909, or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. (See paragraph (c) of this section.)
> (iii) At the third step, we also consider the medical severity of your impairment(s). If you have an impairment(s) that meets or equals one of our listings in appendix 1 to subpart P of part 404 of this chapter and meets the duration requirement, we will find that you are disabled. (See paragraph (d) of this section.)
> (iv) At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. If you can still do your past relevant work, we will find that you are not disabled. See paragraphs (f) and (h) of this section and § 416.960(b).
> (v) At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. If you can make an adjustment to other work, we will find that you are not disabled. If you cannot make an adjustment to other work,

> we will find that you are disabled. See paragraphs (g) and (h) of this section and § 416.960(c)." 20 C.F.R. § 416.920(a)(4)(i-v).

With the exception of Step 3, a negative finding at any step will bar a determination that an applicant is disabled. See McDaniel v. Bowen, 800 F.2d 1026, 1030 (11th Cir. 1986) (citing 20 C.F.R. § 416.920(a)-(f)). The applicant bears the burden of proof for the first four steps and, at that point, the burden shifts to DHS for the fifth step. See Pope v. Shalala, 998 F.2d 473, 477 (7th Cir. 1993) ("If the claimant does not have a listed impairment but cannot perform her past work, the burden shifts to the [DHS] to show that the claimant can perform some other job.")

Complete Record

Under 20 C.F.R. § 416.912(d), the agency—DHS—must develop a complete medical history before making a determination that the applicant is not disabled. A complete record is essential in determining an applicant's RFC; thus, before a determination of not disabled can be made, "[DHS is] responsible for developing [the applicant's] complete medical history, including arranging for a consultative examination(s) if necessary, and making every reasonable effort to help [the applicant] get medical reports from [his or her] own medical sources." 20 C.F.R. 416.945(a)(3).

Furthermore, it is well-established that:

> "Due to the non-adversarial nature of disability determination proceedings . . . the Secretary has recognized that she has certain responsibilities with regard to the development of the evidence . . . and we believe this responsibility increases in cases where the appellant is unrepresented, . . . where there are gaps in the evidence necessary to a reasoned evaluation of the claim, and where it is within the power of the [ALJ], without undue effort, to see that the gaps are somewhat filled . . . ." Currier v. Sec'y of Health, Educ. and Welfare, 612 F.2d 594, 598 (1st Cir. 1980) (emphasis added).

See also Shaw v. Chater, 221 F.3d 126, 131 (2d Cir. 2000) ("[t]he ALJ [Administrative Law Judge] has an obligation to develop the record in light of the non-adversarial nature of the

benefits proceedings, regardless of whether the claimant is represented by counsel."); Echevarria v. Sec'y of Health and Human Services, 685 F.2d 751, 755 (2d Cir. 1982) (". . . the ALJ, unlike a judge in trial, must himself affirmatively develop the record").

In Rhode Island, MART is specifically required, under the Rhode Island Administrative Code, to "make every reasonable effort to assist the applicant in obtaining any additional medical reports needed to make a disability decision," and "every reasonable effort" is defined as an initial request and, if necessary, one follow-up request for information. DHS Manual 0352.15.10. Thus, it is the duty of MART or the hearing officer, rather than an ALJ, to ensure that the record is complete. See id.

Here, the Hearing Officer was aware that Appellant had new medical records from Thundermist Health Center that covered the period from July 2013 to October 2013. (DHS R. Ex. 15, Admin. Hr'g Tr. at 17-19, 24-25.) Considering that Thundermist already had supplied DHS with Appellant's earlier medical records from 2013, it is difficult for the Court to understand how updating Appellant's records from Thundermist would have proved particularly challenging for the Hearing Officer. Furthermore, the Hearing Officer's responsibility to compile a complete record increased before making a disability determination of a pro se litigant. See Landess v. Weinberger, 490 F.2d 1187, 1189 (8th Cir. 1974) ("Where it is obvious that the examiner has not fully developed the evidence, we have ruled the Secretary has the duty to reopen the claim until the evidence is sufficiently clear to make a fair determination as to whether the claimant is disabled or not.").

Although the court in Currier, when addressing the completeness of the record, noted that it did "not see such responsibilities arising in run of the mill cases, in this case, the Appellant's mental health was at issue, and it is impossible to know what the updated records might have

shown. Currier, 612 F.2d at 598. However, the fact that Appellant had continued to see Mr. Paesano for his behavioral health treatment, the additional records may have proven to be highly probative of his claim of disability. (DHS R. Ex. 15, Admin. Hr'g Tr. at 16.) Furthermore, the Court also notes that during the hearing, it appears that Appellant did not have a strong grasp of the identity of his health providers. Id. at 23-24. Given these facts, the Court concludes that the Hearing Officer had an obligation to ensure that Appellant's latest medical records were included as evidence in the record.

IV

Conclusion

The Court finds it unnecessary to reach the other issues raised by Appellant since this Court finds that the Hearing Officer's decision is inadequate due to the fact that a finding of "not disabled" was rendered on an incomplete record. Accordingly, for the foregoing reasons, this matter is remanded to DHS for further proceedings consistent with this Decision.

Counsel shall agree upon an appropriate form of order and judgment, reflective of this Decision, and submit it to the Court forthwith for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	William Gelinas v. R.I. Executive Office of Health & Human Services
CASE NO:	PC 13-5928
COURT:	Providence County Superior Court
DATE DECISION FILED:	October 14, 2014
JUSTICE/MAGISTRATE:	Procaccini, J.
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