

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED] 2

Reg. No.: 2010-28092  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: April 28, 2010  
DHS County: Macomb (50-12)

**ADMINISTRATIVE LAW JUDGE:** Jonathan W. Owens

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on April 28, 2010. Claimant appeared and testified.

**ISSUE**

Whether the Department of Human Services (DHS or Department) properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) 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 October 8, 2009, Claimant applied for MA-P and retro MA-P.
2. On December 18, 2009, the Medical Review Team denied Claimant's request.
3. On March 19, 2010, Claimant submitted to the Department a request for hearing.
4. The State Hearing and Review Team (SHRT) denied Claimant's request.
5. Claimant is 57 years old.
6. Claimant completed education through the 8<sup>th</sup> grade.
7. Claimant has employment experience as a truck driver.
8. Claimant's limitations have lasted for 12 months or more.

9. Claimant suffers from myocardial infarction, arthritis-all joints, visible in elbow, gout and ejection fraction of 30%.
10. Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

### **CONCLUSIONS OF LAW**

MA-P is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA-P pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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).

Claimant's treating cardiologist indicated he was a Class III heart functional capacity classification and a Class D therapeutic classification. The physician on [REDACTED], indicated less than sedentary restrictions.

Claimant testified to the following: joints are all swelled up, trouble moving, feet swell up, has loss toe nails as a result of the swelling, shortness of breath, gets woozy, partial vision in left eye 3-4 times a month, feels really tired, can walk ¼ mile, can sit 20 minutes, can stand an hour, can lift 10 lbs, not able to do household chores, can't drive, able to take care of self care, ringing in the ears and suicidal thoughts. Claimant is also reading at a 3<sup>rd</sup> grade level.

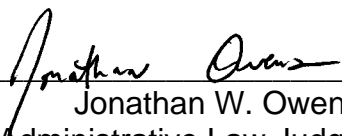
In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 4.02 B or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of a listing.

Therefore, 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 Claimant is medically disabled as of September 2009.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated October 8, 2009, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for January 2012.

  
Jonathan W. Owens  
Administrative Law Judge  
for Duane Berger, Director  
Department of Human Services

Date Signed: January 12, 2011

Date Mailed: January 12, 2011

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JWO/pf

cc:

