

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

IN THE MATTER OF:



Reg. No: 2010-37627
Issue No: 2009
Case No: [REDACTED]
Hearing Date: August 5, 2010
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain for Jay W. Sexton

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 telephone hearing was held on August 5, 2010. Claimant was represented at the hearing by [REDACTED].

This hearing was originally held by Administrative Law Judge Jay Sexton. Jay Sexton is no longer affiliated with the Michigan Administrative Hearing System Administrative Hearings for the Department of Human Services. This hearing decision was completed by Administrative Law Judge Landis Y. Lain by considering the entire record.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

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 January 7, 2010, claimant filed an application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On March 10, 2010, the Medical Review Team denied claimant's application stating that claimant's impairments lack duration.
- (3) On March 10, 2010, the department caseworker sent claimant notice that his application was denied.

- (4) On May 28, 2010, claimant filed a request for a hearing to contest the department's negative action.
- (5) On June 11, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommendation: the claimant was hunting and fell from a deer blind in [REDACTED] and fractured multiple ribs. He also had a chest tube insertion for pneumothorax. He developed AFIB which eventually converted to sinus rhythm with treatment. The medical evidence of record indicates that the claimant's condition is improving or is expected to improve within 12 months from the date of onset or from the date of surgery. Therefore, MA-P is denied due to lack of duration under 20 CFR 416.909. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 as the impairments would not preclude all work for 90 days.
- (6) The hearing was held on August 5, 2010. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) Additional medical information was submitted and sent to the State Hearing Review Team on August 9, 2010.
- (8) On August 11, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommendation: the claimant was hunting and fell from a deer blind in December 2009 and fractured multiple ribs. He also had chest tube insertion for pneumothorax. He developed AFIB which eventually converted to sinus rhythm with treatment. In June 2010 he still had pain in the rib and chest tube site but his physical examination was otherwise within normal limits. The objective evidence does not support this significant level of limitation indicated by the claimant's family physician. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of unskilled work. In lieu of detailed work history, the claimant will be returned to other work. Therefore, based on the claimant's vocational profile of closely approaching advanced age at 53, 15 years of education and a history of semi-skilled work, MA-P is denied using Vocational Rule 202.14 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.
- (9) On October 12, 2011, the Administrative Law Judge received an SOLQ from the Social Security Administration which indicates that claimant has a fully favorable decision from the Social Security Administration dated August 24, 2011, with a disability onset date of November 23, 2009, and is in current payment status.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program 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 of Human Services (DHS or department) administers the MA program 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).

A person eligible for retirement, survivor's, and disability insurance (RSDI) benefits based on a disability or blindness, meets the disability or blindness criteria. Disability or blindness starts from the RSDI Disability onset date established by the Social Security Administration (SSA). This includes a person whose entire RSDI benefit is being withheld from recoupment. No other evidence is required. BEM, Item 260, p. 1.

On August 24, 2011, the Social Security Administration determined that claimant was eligible for RSDI with a disability onset date of November 23, 2009. Because of the Social Security Administration Determination it is no longer necessary for this Administrative Law Judge to address the issue of disability under the circumstances. The department required to initiate a determination that claimant's financial eligibility for the requested benefits if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that based upon the August 24, 2011, decision by the Social Security Administration that found claimant disabled under Social Security rules with a RSDI disability onset date of November 23, 2009, that claimant meets the definition of medically disabled under the Medical Assistance and retroactive Medical Assistance programs as of the November 23, 2009, disability onset date. Claimant also meets the

definition of medically disabled for purposes of State Disability Assistance benefits as of the January 7, 2010, State Disability Assistance benefit application.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the January 7, 2010, Medical Assistance, Stated Disability Assistance and retroactive Medical Assistance application if it has not already done so, to determine if all other non-medical eligibility criteria are met and if so, determine eligibility for Medical Assistance and retroactive Medical Assistance benefits for the month of November 2009 forward and the State Disability Assistance from January 7, 2010, forward. The department shall inform the claimant of the determination in writing. The department is also ORDERED to conduct a Medical Review of claimant's continued eligibility in November 2012.

Landis

/s/
Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/24/11

Date Mailed: 10/26/11

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.

LYL/alc

cc:

