

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

IN THE MATTER OF:



Reg. No: 2011-43377
201040452
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date:
August 18, 2010
Genesee County DHS (5)

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain for Ivona Rairigh

RECONSIDERATION 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, an in-person hearing was held on August 18, 2010. Claimant personally appeared and testified. Claimant was represented at the hearing by [REDACTED]

This hearing was originally held by Administrative Law Judge Ivona Rairigh. Ivona Rairigh is no longer affiliated with the Michigan Administrative Hearing System Administrative Hearings for the Department of Human Services and 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 November 13, 2009, claimant filed an application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On March 4, 2009, the Medical Review Team denied claimant's application stating that claimant's impairments were non-severe.
- (3) On March 18, 2009, the department caseworker sent claimant notice that his application was denied.

- (4) On June 15, 2010, claimant's representative filed a request for a hearing to contest the department's negative action.
- (5) On July 8, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommendation: the evidence provided does not support that there is a severe physical or mental impairment. The claimant is less than credible and that they are noted not to be forthright related to substance abuse issues. The claimant also changes allegations between examinations. The medical evidence of record does not document a mental/physical impairment that significantly limits the claimant's ability to perform basic work activities. Therefore, MA-P is denied per 20 CFR 416.921(a). Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 due to the lack of severity. Listing 1.02, 9.08, 11.04, 11.14, 12.04, 12.06, and 12.09 were considered in this determination.
- (6) The hearing was held on August 18, 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 May 16, 2011.
- (8) On June 1, 2011, the State Hearing Review Team again denied claimant's application stating its' analysis and recommended decision: the objective medical evidence present does not establish a disability at the listing or equivalence level. The collective medical evidence shows that the claimant is capable of performing past work checking parts. The claimant's impairment's do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that claimant retains the capacity to perform a wide range of light work. Therefore, based on the claimant's vocational profile of advanced age, 12th grade education and a light work history, MA-P is denied using Vocational Rule 202.05 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 impairment's would not preclude work activity at the above stated level for 90 days.
- (9) On the date of hearing claimant was a 55-year-old man whose birth date is [REDACTED]. Claimant is 5'11" tall and weighs 145 pounds. Claimant attended the 10th grade and does have a GED. Claimant is able to read and write and does have basic math skills.
- (10) Claimant last worked in 2007 in a small factory making car parts.
- (11) Claimant alleges as disabling impairments: enlarged liver, vertigo, head pain, right sided numbness, adjustment disorder, anxiety and depression.

- (12) On June 15, 2011, Administrative Law Judge Lain signed a Decision and Order Affirming the department's decision to deny claimant's eligibility for Medical Assistance, retroactive Medical Assistance and State disability Assistance.
- (13) On September 5, 2011, the Social Security Administration granted claimant's application for RSDI with a disability onset date of October 1, 2009.
- (14) On September 12, 2011, [REDACTED] filed a request for reconsideration in light of the fact that the Social Security Administration approved claimant for RSDI.

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 **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues **raised in the hearing request**.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and 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 Department, AHR or the client must specify all reasons for the request.

A written request made by the AHR or, if none, by the client, must be faxed to:

- (517) 335-6088- Attention: SOAHR Client Requested Rehearing/Reconsideration
- SOAHR (now MAHS) will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR (MAHS).
- Client or authorized hearing representative request -- received anywhere in DHS.

Granting A Rehearing/ Reconsideration

All Programs

SOAHR (MAHS) will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing. SOAHR (MAHS) grants a rehearing/reconsideration request if:

- The information in the request justifies it; **and**

- **There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.**
- **If the client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.**

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an Order which requires a delay or stay.

If such an order is received by the client, SOAHR, the court or the Legal Affairs, or if there are questions about implementing the order; see Administrative Handbook manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services. BEM, Item 600.

A person eligible for Retirement, Survivors and Disability Insurance (RSDI) benefits based on his 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 for recoupment. No other evidence is required. BEM, Item 260, page 1.

On September 5, 2011 the Social Security Administration determined that claimant was eligible for Retirement, Survivors and disability Insurance (RSDI) with a disability onset date of October 1, 2009. Because of the Social Security Administration determination, this Administrative Law Judge must vacate the prior decision to affirm the Department's determination that claimant was not disabled for the months of October and November 2009. It is no longer necessary for the Administrative Law Judge to address the issue of disability under the circumstances. The department is required to initiate a determination of 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 September 5, 2011 decision by the Social Security Administration that found claimant disabled under Social Security rules with an RSDI disability onset date of October 1, 2009, that claimant meets the definition of medically disabled under the medical assistance and retroactive medical assistance program as of the November 13, 2009 application date and for the month of October 2009 based upon the retroactive Medical Assistance Application.

Accordingly, the June 1, 2011 decision to deny claimant eligibility for Retroactive Medical Assistance benefits is hereby **VACATED**. The department is **ORDERED** to initiate a review of the November 13, 2009 Medical Assistance, State 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 for the months of October 2009 forward and State Disability Assistance from November 13, 2009 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 eligibility in June 2012.

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

Date Signed: September 20, 2011

Date Mailed: September 21, 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.

LYL/alc

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