

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201044533
201153993
Issue No: 2009
Case No: [REDACTED]
Hearing Date:
August 31, 2010
Genesee County DHS (2)

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain for Jana Bachman

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 31, 2010. Claimant personally appeared and testified.

This hearing was originally held by Administrative Law Judge [REDACTED]. Judge [REDACTED] 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 [REDACTED] 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 retroactive Medical Assistance (retro MA-P)?

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 18, 2009, claimant filed an application for Medical Assistance and Retroactive Medical Assistance benefits alleging disability.
- (2) On August 2, 2010, the Medical Review Team denied claimant's application stating that claimant could perform other work pursuant to Medical Vocational Rule 202.12.

- (3) On April 19, 2010, the department caseworker sent claimant notice that her application was denied.
- (4) On July 16, 2010, claimant's representative filed a request for a hearing to contest the department's negative action.
- (5) On August 2, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommendation: the claimant has a history of depression and anxiety. In October 2009 she reported stability with medication compliance. In February 2010 her speech was clear and spontaneous. She is about 380 pounds and likely to have some limitations due to her weight. She had a small herniated disc at L5-S2 and mild disc herniation at L4-5 but no evidence of neurological abnormalities. Gait was normal. 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 the claimant retains the capacity to perform a wide range of simple unskilled light work. In lieu of detailed work history, the claimant will be returned to other work. Therefore, based on the claimant's vocational of a younger individual, 14 years of education and history of semi-skilled work, MA-P is denied using Vocational Rule 202.21 as a guide. Retroactive MA-P was considered in this case and is also denied.
- (6) The hearing was held on August 31, 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 September 29, 2010.
- (8) On October 8, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommended decision: the newly submitted evidence does not significantly or materially alter the previous recommended decision. 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 the claimant retains the capacity to perform a wide range of light unskilled work. Therefore, based on the claimant's vocational profile of a younger individual, 14 years of education and unskilled work history, MA-P is denied using Vocational Rule 202.17 as a guide. Retroactive MA-P was considered in this case and is also denied.
- (9) On the date of hearing claimant was a 36-year-old woman whose birth date is [REDACTED]. Claimant is 5'7" tall and weighs 380 pounds. Claimant is a high school graduate and attended some college. Claimant is able to read and write and does have basic math skills.

- (10) Claimant last worked May 2010 as a warehouse assistant manager for Habitat for Humanity. Claimant has also worked in retail sales and for the Michigan Renaissance Festival.
- (11) Claimant alleges as disabling impairments: Obesity, herniated disc in her lower back, sciatica in her right leg, anxiety and depression, injury to both knees, boils, a bi-polar disorder and a bad back.
- (12) On May 19, 2011, Administrative Law Judge Lain issued a decision denying claimant's application.
- (13) On August 26, 2011, L and S Associates filed a request for reconsideration because the Social Security Administration approved claimant for RSDI with a disability onset date of December 1, 2008.
- (14) On December 2, 2011, Administrative Law judge Manager Marya Nelson-Davis granted the request for reconsideration

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 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 March 3, 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 decision by the Social Security Administration that found claimant disabled under Social Security rules with an RSDI disability onset date of December 1, 2008, that claimant meets the definition of medically disabled under the medical assistance and retroactive medical assistance program as of the November 18, 2009 application date and for the three months prior based upon the retroactive Medical Assistance Application.

Accordingly, the decision to deny claimant eligibility for Medical/Retroactive Medical Assistance benefits is hereby **VACATED**. The department is **ORDERED** to initiate a review of the November 18, 2009 Medical 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 August 2008 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.

/s/

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

Date Signed: December 12, 2011

Date Mailed: December 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.

LYL/ds

