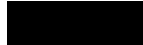




STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No: 2010-1915  
Issue No: 2009  
Case No:   
Load No:   
Hearing Date:  
November 25, 2009  
Macomb County DHS

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, an in-person hearing was held on November 25, 2009. The Claimant appeared and testified.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant is not "disabled" for purposes of the Medical Assistance (MA) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as a material fact:

1. On January 9, 2008, the Claimant applied for MA-P.
2. On May 19, 2009, the Department denied the Claimant's application.
3. On September 2, 2009, the Claimant filed a request for hearing regarding the Department's denial of benefits.

4. The Claimant is 53 years old.
5. The Claimant has an 8<sup>th</sup> grade education from outside the United States.
6. The Claimant is currently working at [REDACTED]. The Claimant testified he has worked at [REDACTED] for the last 8 years and works 35-40 hours a week at a rate of pay of \$9.99 an hour.
7. The Claimant suffers from asthma, back pain, muscle and stomach pain, iliopsoas abscess.
8. The Claimant's conditions have not prevented employment or activity for 12 months or more.
9. The Claimant's condition has not prevented employment or related activities for 90 days or more.

#### CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is

known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

Because disability must be determined on the basis of medical evidence, Federal regulations have delineated a set order entailing a step sequential process for evaluating physical or mental impairments. When claimant is found either disabled or not disabled at any point in the process, the claimant is not considered further.

Addressing the following steps:

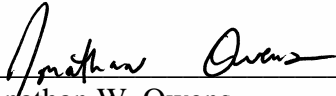
The first sequential step to be consider is whether the Claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, the Claimant testified he is currently working and will continue to work. The Claimant works for Taco Bell. The Claimant earns at least \$1398 gross a month. The Claimant's gross earnings exceed the SGA amount for 2009 of \$980 for non-blind individuals.

It is the finding of the undersigned, based upon the evidence presented that the Claimant is not "disabled" at the first step. The Claimant is substantially gainfully employed.

#### DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law, decides that the Claimant is not "disabled" for purposes of the Medical Assistance and State Disability Assistance program.

It is ORDERED; the Department's determination in this matter is AFFIRMED

  
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Jonathan W. Owens  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 12/21/09

Date Mailed: 12/21/09

**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/dj

cc:

