

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-20300
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 25, 2011
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 25, 2011, at the Department of Human Services office in Oakland County, Michigan, District 03. Claimant was represented at the hearing by [REDACTED].

ISSUE

Was the denial of claimant's application for Medical Assistance Program benefits (MA-P) for lack of disability correct?

FINDINGS OF FACT

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

1. Claimant applied for MA-P on November 29, 2010.
2. Claimant is currently employed, making \$10.89 per hour and working on average 20 hours per week.
3. Claimant's most recent paycheck before the hearing was \$524 for two weeks' worth of work, and testified that the next paycheck would be over \$700.
4. On January 18, 2011, the Medical Review Team denied MA-P, stating that claimant did not meet durational requirements.

5. A notice of case action was sent to claimant on January 20, 2011.
6. On January 20, 2011, claimant filed for hearing.
7. On March 7, 2011, the State Hearing Review Team denied MA-P, stating that claimant was capable of performing other work.
8. On April 25, 2011, a hearing was held before the Administrative Law Judge.

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 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 Bridges Reference Manual (BRM).

Federal regulations require that the Department use the same operative definition of the term “disabled” as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

Disability is defined as the inability to do any 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.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant’s disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

The first step that must be considered is whether the claimant is still partaking in SGA. 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2011 is \$1,640. For non-blind individuals, the monthly SGA amount for 2011 is \$1,000.

In the current case, claimant testified that he is working. Claimant testified that he is making \$10.89 per hour and working about 20 hours per week. However, claimant testified that his last paycheck was \$524 gross, and that his next paycheck would be over \$700.

This is more than the threshold for SGA. The SGA threshold only allows for deductions for impairment-related work expenses. Therefore, as claimant is performing SGA, a finding of not disabled is directed.

The Administrative Law Judge would note that this finding does not belittle the seriousness of claimant's disability. However, the rules for disability make no distinction as to how the claimant got the job, the nature of the job or whether the claimant is on light duty; the rules only examine whether the claimant is exceeding the SGA threshold. This is a bright line rule; even if claimant were a penny above this limit, a finding of not disabled would be directed.

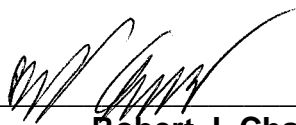
The undersigned also acknowledges that claimant has only recently returned to this job after his medical incident; however, were the undersigned to continue with his analysis, claimant would be disqualified at step two, as claimant's impairment has not prevented work-related activities for a period of 12 months. Step two requires an impairment that can be expected to interfere with work-related activities for a period of 12 months; claimant's impairment has not interfered with work-related activities for the required time period since filing the application, as claimant has returned to work doing substantially the same job as before he left. Therefore, claimant does not meet durational requirements.

For those reasons, the Administrative Law Judge must conclude that the Department was not in error when it found claimant not disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not disabled for the purposes of the MA program. Therefore, the decisions to deny claimant's application for MA-P were correct.

Accordingly, the Department's decision in the above-stated matter is, hereby, **AFFIRMED**.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 7, 2012

Date Mailed: March 8, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

