

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

IN THE MATTER OF:



Reg. No: 201123889
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 2011
Wayne County DHS

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 June 15, 2011.

ISSUE

Was the denial of claimant's application for 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 25, 2011.
- (2) Claimant is currently employed, making \$8.14 per hour and working on average 32 hours per week.
- (3) Claimant's last paycheck was \$463.98 in gross pay.
- (4) Claimant has held this employment for the last 8 years.

- (5) On February 15, 2011, the Medical Review Team denied MA-P, stating that claimant was capable of performing his past relevant work.
- (6) On January 25, 2011, claimant filed for hearing.
- (7) On March 31, 2011, the State Hearing Review Team denied MA-P, stating that claimant was capable of performing other work.
- (8) On June 15, 2011, a hearing was held before the Administrative Law Judge.
- (9) Claimant was represented at hearing by [REDACTED].

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 (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 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 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 are necessary. 20 CFR 416.920

The first step that must be considered is whether the claimant is still partaking in Substantial Gainful Activity (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 \$1000.

In the current case, claimant testified that he is working. Claimant's submitted pay checks show that claimant is making \$8.14 per hour, and works on average, 32 hours per week. Combined, claimant's two submitted pay checks, covering roughly 1 month of work, total \$1041.92.

By the Administrative Law Judge's calculations, an average of 32 hours per week times \$8.14 an hour, times four weeks in a month also equals \$1041.92. This is more

than the threshold for SGA. While claimant's last paycheck was \$378.12, this was the net amount, after taxes. 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.

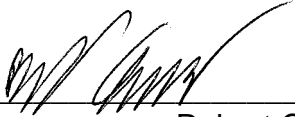
The Administrative Law Judge would note that this finding does not belittle the seriousness of claimant's disability. However, the rules for disability make no distinction as to how the claimant got the job, the nature of the job or whether claimant is on light duty; the rules only examine whether the 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.

For that reason, 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 the 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 Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/30/11

Date Mailed: 06/30/11

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.

RJC/dj

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