

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-29232

[REDACTED]

Cass County DHS-14

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on July 26, 2011. The Claimant appeared and testified. The Department was represented by [REDACTED] ES and [REDACTED] AP Supervisor.

ISSUE

Was the Department correct in denying Claimant's MA-P and SDA applications?

FINDINGS OF FACT

1. Claimant applied for MA-P, Retroactive MA and SDA on January 4, 2011.
2. The Medical Review Team denied the application on March 18, 2011.
3. Claimant filed a request for hearing on March 31, 2011 regarding the MA and SDA denials.
4. A hearing was held on July 26, 2011.
5. On May 3, 2011 the State Hearing Review Team denied the application because the Claimant retains the capacity to perform a wide range of light exertional work.
6. Claimant is 5' 9" tall and weighs 217 pounds.
7. Claimant is 52 years of age.
8. Claimant's impairments have been medically diagnosed as degenerative disc disease, low back pain, hypertension and colostomy.

9. Claimant has the following symptoms: fatigue, muscle weakness, low back pain.
10. Claimant completed high school.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant lives with his mother.
13. Claimant testified that he cannot perform most household chores.
14. The Claimant's limitations have lasted for 12 months or more.
15. Claimant takes the following prescribed medications
 - a. Lisinipril
 - b. Norco
 - c. Keflex
16. Claimant is not working.
17. Claimant last worked at a steel mill.
18. Claimant testified to the following physical limitations:
 - i. Sitting: 30 minutes
 - ii. Standing: 10 minutes
 - iii. Walking: 1/8 mile
 - iv. Bend/stoop: difficulty
 - v. Lifting: 5-10 lbs.
 - vi. Grip/grasp: no limitations
19. An MRI report dated May 22, 2011 gives an impression "L1-L2 No central spinal canal or neural foraminal stenosis. L2-L3 mild bilateral arthotopahty and ligamentum flavum hypertrophy. No central spinal canal or neural foraminal stenosis. L3-L4 mild bilateral arthotopahty and ligamentum flavum hypertrophy. No central spinal canal or neural foraminal stenosis. L4-L5 Mild diffuse disk bulging, bilateral facet arthropath and ligamentum flavum hypertrophy. When superimposed upon a developmentally slender canal this contributes to mild central spinal canal stenosis. No significant neural foraminal stenosis. L5-S1 Mild disk bulging. Broad-based central and bilateral paracentral annular tear. The bulging disk contacts the traversing S1 nerve roots. Mild bilateral facet arthropathy. Mild central spinal canal stenosis. Moderate to severe left and moderate right medial foraminal stenosis encroaching on the exiting L5 nerve roots."
20. Claimant uses a TENS unit for pain on a daily basis.

21. Claimant reports a 7-8 pain level on an everyday basis with constant pain of at least 4.

CONCLUSIONS OF LAW

The Medical Assistance (MA-P) 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-P 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).

The Department conforms to state statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P program. Under SSI, 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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect

judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant meets listing 1.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of the listing. Claimant has other significant health problems that were not fully addressed in this decision because Claimant is found to meet a listing for a different impairment.

Therefore, Claimant is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of January 2011.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the MA, Retroactive MA and SDA applications dated January 4, 2011, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for August 2012.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/23/11

Date Mailed: 8/23/11

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 60 days of the filing of the original request.

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.

AM/ds

■ [REDACTED]