

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Midland County DHS

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, an in person hearing was held on September 1, 2011. The Claimant appeared along with his wife Dianne Nelson and both testified. Claimant Authorized Hearings Representative [REDACTED] also appeared. The Department was represented by [REDACTED].

ISSUE

Was the Department correct in denying Claimant's MA-P and retroactive MA-P application?

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 and Retroactive MA September 28, 2010.
2. The Medical Review Team denied the application on February 8, 2011.
3. Claimant filed a request for hearing on April 19, 2011 regarding the MA denial.
4. A hearing was held on September 1, 2011.
5. On May 13, 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 6' 0" tall and weighs 220 pounds.

7. Claimant is [REDACTED] of age.
8. Claimant's impairments have been medically diagnosed as degenerative disc disease, back pain, anxiety and depression.
9. Claimant has the following symptoms: memory problems, panic attacks, low back pain, fatigue, and foot drop.
10. Claimant completed high school and 2 years of college.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is not working. Claimant last worked as a welder in 2007.
13. Claimant lives with his wife.
14. Claimant testified that he cannot perform household chores.
15. The Claimant's limitations have lasted for 12 months or more.
16. Claimant takes the following prescribed medications
 - a. Xanax
 - b. Ibuprofen
 - c. Ultram
 - d. Paxil
17. Claimant testified to experiencing an 8-9 pain level on a 10 point scale in the back, hips and legs with some pain always present at a 5-6 level on an every day basis.
18. An MRI report from March 2008 finds " At the L3-4 disk level, there is early disk dissection, mild disk space narrowing and superimposed on mild diffusely bulging disk there is note of left foraminal and primarily far lateral disk herniation, does abut and may compress the exiting L3 nerve root and does narrow the L3-4 neural foramen."

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-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 June 2010.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application for MA-P and retroactive MA dated September 28, 2010, 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 September 2012.



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

Date Signed: 9/26/11

Date Mailed: 9/26/11

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]