

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-34672
2010-54679
Issue No: 2009, 4031
Case No: [REDACTED]
Load No: 3800000000
Hearing Date:
November 16, 2010
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

RECONSIDERATION 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 16, 2010. Claimant personally appeared and testified. Claimant's authorized Representative [REDACTED] did not appear and offered no excuse for the failure to appear. The claimant elected to proceed [REDACTED] absence.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro MA-P)?

FINDINGS OF FACT

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

- (1) On March 16, 2010, claimant filed an application for Medical Assistance, and Retroactive Medical Assistance benefits alleging disability.
- (2) On May 7, 2010, the Medical Review Team denied claimant's application stating that claimant could perform past relevant work.
- (3) On May 11, 2010, the department case worker sent claimant notice that her application was denied.
- (4) On July 28, 2010, claimant filed a request for a hearing to contest the department's negative action.

- (5) On September 27, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommendation: the claimant has a history of a thyroid disorder and a coronary artery disease with stenting in 2008. She was admitted in February 2010, due to anemia. She had stopped taking her thyroid medications. She received 2 units of blood and her hemoglobin did improve. Her examination after hospitalization showed that she was obese but otherwise unremarkable. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of simple unskilled light work. In lieu of detailed work history the claimant will be returned to other work. Therefore, based on the claimant's vocational profile of a younger individual, limited education and a history of unskilled and semi-skilled work, MA-P is denied using Vocational Rule 202.17 as a guide. Retroactive MA-P was considered in this case and is also denied.
- (6) Claimant is a 46-year-old woman whose birth date is [REDACTED]. Claimant is 5'1" tall and weighs 260 pounds. Claimant attended the 11 grade and has no GED. Claimant is able to read and write and does have basic math skills.
- (7) Claimant last worked in 2006 on a line at a factory. Claimant has also worked as a manager at a truck stop and as a shift manager at a gas station.
- (8) Claimant alleges as disabling impairments: depression, back problems, coronary artery disease, anemia, a heart attack in 2005, underactive thyroid, and hypertension.
- (9) On December 1, 2010, Administrative Law Judge Lain signed a Decision and Order Affirming the department's decision to deny claimant's eligibility for Medical Assistance, and Retroactive Medical Assistance.
- (10) On April 27, 2011, the Social Security Administration granted claimant's application for SSI with a disability onset date of October 13, 2009.
- (11) On September 12, 2011, [REDACTED] filed a request for reconsideration in light of the fact that the Social Security Administration approved claimant for SSI.
- (12) On September 15, 2011, Administrative Law judge Marya Nelson-Davis ordered that reconsideration be granted in light of the Social Security Administration's determination.

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) 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 Program Reference Manual (PRM).

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues **raised in the hearing request**.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/ reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request.

A written request made by the AHR or, if none, by the client, must be faxed to:

- (517) 335-6088- Attention: SOAHR Client Request ed Rehearing/Reconsideration.
- SOAHR (now MAHS) will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR (MAHS).
- Client or authorized hearing representative request -- received anywhere in DHS.

Granting A Rehearing/ Reconsideration

All Programs

SOAHR (MAHS) will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing. SOAHR (MAHS) grants a rehearing/reconsideration request if:

- The information in the request justifies it; **and**
- **There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.**
- **If the** client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an Order which requires a delay or stay.

If such an order is received by the client, SOAHR, the court or the Legal Affairs, or if there are questions about implementing the order; see Administrative Handbook manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services. BEM, Item 600.

Ongoing MA eligibility begins the first day of the month of SSI entitlement. Some clients also qualify for **retroactive** (retro) MA coverage for up to three calendar months prior to SSI entitlement; see [BAM 115](#). BEM, Item 150, page 1.

On April 27, 2011, the Social Security Administration determined that claimant was eligible for Supplemental Security Income (SSI) with an eligibility date of October 13, 2009. Because of the Social Security Administration determination, this Administrative Law Judge must vacate the prior decision to affirm the Department's determination that claimant had not established disability. It is no longer necessary for the Administrative Law Judge to address the issue of disability under the circumstances. The department is required to initiate a determination of claimant's financial eligibility for the requested benefits, if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that based upon the September 5, 2011 decision by the Social Security Administration that found claimant disabled under Social Security rules with an SSI disability eligibility date of October 13, 2009, that claimant meets the definition of medically disabled under the Medical Assistance and Retroactive Medical Assistance program as of the March 16, 2010 application date and for the months of October 2009, forward based upon the month of SSI entitlement.

Accordingly, the December 1, 2010 decision to deny claimant eligibility for Retroactive Medical Assistance/Medical Assistance benefits is hereby **VACATED**. The department is **ORDERED** to initiate a review of the March 16, 2010 Medical Assistance and Retroactive Medical Assistance Application, if it has not already done so, to determine if all other non-medical eligibility criteria are met, and if so, determine eligibility for Medical Assistance and Retroactive Medical Assistance, effective the month of SSI entitlement. The department shall inform the claimant of the determination in writing. The department is also **ORDERED** to conduct a medical review of claimant's eligibility in September 2012.

Landis

/s/

Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 22, 2011

Date Mailed: September 23, 2011

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.

LYL/alc

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