

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2011-34721  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: March 15, 2012  
County: Macomb (50-12)

**ADMINISTRATIVE LAW JUDGE:** Jan Leventer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on March 15, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, his Case Manager, [REDACTED], and his witnesses, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) program?

**FINDINGS OF FACT**

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

1. On November 24, 2010, Claimant filed an application for Medicaid benefits. The application also requested MA retroactive to August 1, 2010.
2. On January 24, 2011, the Department sent a Notice of Case Action to Claimant, denying his application.
3. On February 4, 2011, Claimant filed a request for an Administrative Hearing.
4. Claimant, age fifty-six [REDACTED] has a twelfth-grade education.

5. Claimant last worked in 2009 as a telemarketer. Claimant also performed relevant work as a factory worker and a restaurant worker. Claimant's relevant work history consists exclusively of unskilled, light and heavy exertional work activities.
6. Claimant has a history of major depressive disorder, neuropathy (sciatica), cataracts, rhinophyma, shortness of breath, hypertension, and arthritis and rheumatoid arthritis.
7. Claimant was hospitalized in [REDACTED] as a result of suicidal ideation due to major depressive disorder. The discharge diagnosis was major depressive disorder.
8. Claimant currently suffers from major depressive disorder, neuropathy (sciatica), cataracts, rhinophyma, shortness of breath, hypertension, and arthritis and rheumatoid arthritis.
9. Claimant has severe limitations on his ability to conduct basic activities of daily living. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

### **CONCLUSIONS OF LAW**

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

SDA provides financial assistance for disabled persons and was established by 2004 PA 344. The Department administers SDA pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and RFT.

The Administrative Law Judge concludes and determines that Claimant **IS NOT DISABLED** for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.

**OR**

2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.

**OR**

3. Claimant is capable of performing previous relevant work.

**OR**

4. Claimant is capable of performing other work.

The Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's physical and/or mental impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

State the Listing of Impairment:

12.04 Affective disorders

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration. 20 CFR 404, Appendix 1, Subpart P, Listing of Impairment 12.04 Affective disorders.

**OR**

2. Claimant is not capable of performing other work.

The rationale for this decision is as follows. There are five required findings in order for an individual to be eligible for Medicaid, and these requirements are set forth in the Code of Federal Regulations. 20 CFR 416.920. First, if the person is engaged in substantial gainful employment, they are not eligible. It is found and determined that Claimant is not engaged in substantial gainful employment and has been unemployed for more than one year. Claimant, therefore, has met the first of the five requirements of eligibility.

Second, if the Claimant's impairment is not sufficiently severe as to have lasted or to be expected to last one year, he is not eligible for Medicaid. In this case, Claimant has been hospitalized for major depression with suicidal ideation three times and diagnosed with major depression on other occasions as well. He treats with [REDACTED] psychiatrist, on a monthly basis, and was last seen [REDACTED]. He is prescribed Buspar, Klonopin, Tegretol and Venlafaxine.

Based on this information of record, it is found and determined that Claimant's mental impairment is sufficiently severe in extent and duration as to meet the severity requirement of eligibility.

Third, the next requirement for eligibility is to determine whether Claimant is eligible for MA by virtue of the impairment itself, strictly on the medical information. If so, then the fourth and fifth steps need not be addressed, and eligibility is established at the third step of the requirements.

In this case, Claimant meets the medical requirements of the federal Listing of Impairment 12.04 – Affective disorders. First, Claimant's disorder can be documented for two-years or more. Second, Claimant's impairment has caused more than a minimal limitation of his ability to do basic work activities. At least two psychiatrists, [REDACTED], [REDACTED], psychiatrist, told him he cannot work. On [REDACTED] [REDACTED] reported that Claimant was markedly limited in his ability to remember locations and work-like procedures, to understand and remember one or two-step instructions, to understand and remember detailed instructions, to carry out simple one or two-step instructions, to carry out detailed instructions, to maintain attention and concentration for extended periods, to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, to sustain an ordinary routine without supervision, to work in coordination with or proximity to others without being distracted by them, to make simple work-related decisions, to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, to accept instructions and respond appropriately to criticism from supervisors, to get along with co-workers or peers without distracting them or exhibiting behavioral extremes, to respond appropriately to change in the work setting, and to set realistic goals or make plans independently of others.

[REDACTED] also wrote that Claimant is moderately limited in his ability to interact appropriately with the general public, to ask simple questions or request assistance, to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness, to be aware of normal hazards and take appropriate precautions, and to travel in unfamiliar places or use public transportation.

[REDACTED] considered a total of 19 mental residual functional capacities, and found no category in which Claimant was not significantly limited.

Next, it shall be considered whether Claimant requires psychosocial support and medication. The record shows that he is currently under the care of a psychiatrist who prescribes medication for him.

Finally, the medical records reflect that Claimant has had repeated episodes of decompensation. He has had at least three hospitalizations for suicidal ideation and major depressive disorder. He has also entered short-term substance abuse programs several times.

Based on all of this information of record, it is found and determined that Claimant meets the medical requirements of the third step of the MA eligibility requirements. It is found and determined that the definition set forth in Listing of Impairment 12.04C is fulfilled. Claimant is not required to meet the further requirements of the fourth and fifth steps of MA eligibility.

Based on the Findings of Fact and Conclusions of Law above, Claimant is found to be

**NOT DISABLED.**                       **DISABLED.**

for purposes of the MA program. The Department's denial of MA benefits to Claimant is

**AFFIRMED.**                               **REVERSED.**

Claimant may also be eligible for SDA by virtue of this decision. An individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM Item 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record finds that Claimant

**DOES NOT MEET**                               **MEETS**

the definition of medically disabled under the MA program as of the onset date of November 2009.

The Department's decision is

**AFFIRMED.**                               **REVERSED.**

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate processing of Claimant's November 24, 2010, application, to determine if all nonmedical eligibility criteria for MA and MA retroactive benefits have been met;
2. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate processing of MA and MA retroactive benefits to Claimant, including any supplements for lost benefits to which Claimant is entitled in accordance with policy;
3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits in June 2013.
4. All steps shall be taken in accordance with Department policy and procedure.



**Jan Leventer**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 7, 2012

Date Mailed: May 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.

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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

JL/pf

cc:

