

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

**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 telephone hearing was held on [REDACTED]. Claimant personally appeared and testified.

**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 [REDACTED], claimant filed an application for Medical Assistance and Retroactive Medical Assistance benefits alleging disability.
- (2) On [REDACTED], the Medical Review Team denied claimant's application stating that claimant could perform other work pursuant to Medical Vocational Rule 203.28.
- (3) On [REDACTED], the department caseworker sent claimant notice that his application was denied.
- (4) On [REDACTED] action.
- (5) On [REDACTED], the State Hearing Review Team again denied claimant's application stating that claimant that it had insufficient evidence and requested a psychiatric evaluation.

- (6) The hearing was held on [REDACTED]. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) Additional medical information was submitted and sent to the State Hearing Review Team on [REDACTED].
- (8) On [REDACTED], the State Hearing Review Team again denied claimant's application stating in its analysis and recommended decision: the objective medical evidence present does not establish a disability at the listing or equivalent level. The collective medical evidence shows that the claimant is capable of performing unskilled medium work. The claimant's impairments do not meet/equal the intent of a Social Security listing. The medical records of evidence indicate that the claimant retains the capacity to perform a wide range of unskilled medium work. Therefore, based on the claimant's profile of a younger individual, 12<sup>th</sup> grade education and medium work history MA-P is denied per Vocational Rule 203.28 as a guide. Retro MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.
- (9) Claimant is a [REDACTED] man whose birth date is [REDACTED]. Claimant is [REDACTED] tall and weighs [REDACTED] pounds. Claimant is a high school graduate and attended Special Education from the [REDACTED] [REDACTED] grade. Claimant is able to read and write and is able to add and subtract and count money. Claimant does have some vocational school in building trades.
- (10) Claimant last worked [REDACTED], for the Lear Company on the assembly line. Claimant also worked construction for 13 years on and off.
- (11) Claimant alleges as disabling impairments: asthma, HIV positive, graves disease, infection of skin, racing heart and hyperthyroidism.

### **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).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance 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 is 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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);

- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

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 your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

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).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, claimant is not engaged in substantial gainful activity and has not worked since [REDACTED]. Claimant is not disqualified from receiving disability at Step 1.

The subjective and objective medical evidence on the record indicates that claimant testified that he lives alone in community house network and that his father supports him. Claimant is single with no children under 18 and he receives [REDACTED] per month in State Disability benefits because he's involved in Michigan Rehabilitation Services. Claimant does receive Food Assistance program benefits. Claimant testified on the

record that he does not have a driver's license and he takes the bus where he needs to go. Claimant said he does cook TV dinners and sandwiches and that he goes to grocery shop with other people only. Claimant testified that he picks up his clothes and vacuums and that he goes to church on Sunday's in Lansing. Claimant testified that he can stand for a 1 hour to 1½ hours and sit for 3-4 hours. Claimant can walk 50-100 feet and is able to squat bend at the waist, shower and dress himself and tie his shoes but not touch his toes. Claimant testified that he has a slip disc in his back and his knees are fine. Claimant testified that his level of pain on a scale from 1-10 without medication is an 8 and with medication is a 2-3 and that he is right handed and he has an infection and puss is swelling in his hands and his feet and legs are swollen and red and blotchy. Claimant testified that the heaviest weight he can carry is 10 -15 pounds that he does not smoke, drink and never did drugs. Claimant testified that on a typical day he gets up watches the news, fix his cereal, and makes sandwiches and watches more TV he reads the bible and then studies and go to sleep. At [REDACTED], the psychiatric evaluation indicates that claimant was alert and oriented to time, place, person and stated that it was Monday, the 5<sup>th</sup> of December, as opposed to Monday, the 6<sup>th</sup> of December. He stated that he was in the hospital and identified function of interviewer as a doctor. In his immediate memory his recollection from immediate events appeared impaired and that patient was able to recall 5 digits forward sequentially. He tried to recall them backward. Again repeated them forward. Patient can recall 2 out of 3 objects 3 minutes later. Patient can name the past few President's such as Obama and Reagan and the patient can tell his birthday as [REDACTED], [REDACTED]. When asked to name 5 large cities the patient replied [REDACTED] Louis followed by making statement I don't [REDACTED]. The performance [REDACTED] proceeded [REDACTED] first subtraction. Patient was able to [REDACTED]. In response to 10/2 he replied "I can't do that." When asked to interpret proverb "Don't cry over spilled milk," the patient replied "Don't be sad." We asked how an apple and orange are alike, patient grasp concepts that both were fruit. The are different in peeling. When asked what he would do if he discovered fire in a theater he replied "He would run out and scream fire." He was diagnosed with a mood disorder major depressive form due to general medical condition rule out visual hallucinations. He was also diagnosed with a personality disorder NLS, HIV positive, graves disease, tuberculin test positive, viteligo skin disease. His axes GAF was 29 his prognosis was guarded and he will benefit from a payee or guardian to look out for his best interest (New Information Page 3 & 4). A [REDACTED], Psychiatric Evaluation report indicates that the claimant had major depressive disorder borderline low IQ and history of asthma history of HIV and that his access GAF was 20. A mental residual functional capacity assessment in the record date [REDACTED] detail instructions and is only moderately limited in many other areas and not significantly limited in the rest of the areas. A [REDACTED] disability determination service examination indicates that the claimant was cooperative in answering questions and following commands. The patient's immediate recent and remote memory is intact with normal concentration. The patient's insight and judgment were both appropriate. The patient provides a good effort during the examination. He appeared in mild discomfort. He is wearing a flannel shirt, sweat pants and tennis shoes. His blood

pressure in his left arm equal 140/90 his pulse equals 70 or regular. His respirator rate equal 18. [REDACTED]. Height 68" without shoes, his skin was normal. His visual acuity in the right eye was 22/20 and in the left eye was 20/20 without corrective lenses. Pupils are equal round and reactive to light. The patient can hear conversational speech without limitations or aids. The neck was supple without masses. There's increased AP diameter with moderate bronchio asound and expiratory reason. There is no accessory muscle use. In the heart there is regular rate and rhythm without enlargement. There is a normal S1 and S2. In the abdomen, there is no organomagily or masses. Bowel sounds are normal. The vascular no clubbing, or cynaosis is detected. There is no edema appreciated. The pheriphal pulses are intact. There's no evidence of joint laxity, crepitanace or effusion. Grip strength remains intact. Dexterity is unimpaired. The patient could pick up the coin, button clothing and open a door. The patient had no difficult getting on and off the examination table and no difficulty heel or toe walking and mild difficult squatting and mild difficulty hopping. There is tenderness at about L2/L3 and L3/L4 with paraverterteval spasm. He had nonradiating pain and on the right side with straight leg raising at 60 degrees. Range and motion studies of the joints indicate that claimant was normal in all areas of examination with some limitation in the dorsal lumbar spine. Neurological area cranial nerves were intact. Motor strength and tone are normal. Sensory are intact to light touch and pinprick. Reflexes in the lower extremities are 1+ and symmetrical. Rombard testing is negative. The patient walks with a normal gait without the use of assist device. He was diagnosed with chronic wheezing and asthma and moderate bronchio breath sounds. He was dyspenic. He was on inhaler therapy and the pulmonary function studies might be a benefit. He did appear to be relatively stable. He also had back pain but he did not have any neuropathic symptoms. He had tenderness in the upper lombar spine (DVS Examination Pages 1-5).

The physical examination of [REDACTED], reported the claimant as 68" tall and weighed 175 pounds. He had normal range of motion in all joints. His grip strength was intact and his motor strength was normal with a normal gait. He's HIV positive diagnosed about 5 or 6 years ago and is A systematic. The mental status exam of [REDACTED], notes that he has contact with reality. His mood was dysphoric and he had impaired insight. Thought process was slow but well organized and goal directed. He was fully oriented.

At Step 2, claimant has the burden of proof of establishing that she has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is insufficient objective clinical medical evidence in the record that claimant suffers a severely restrictive physical or mental impairment. Claimant has reports of pain in multiple areas of his body; however, there are no corresponding clinical findings that support the reports of symptoms and limitations made by the claimant. There are no laboratory or x-ray findings listed in the file. The clinical impression is that claimant is stable. There is no medical finding that claimant has any muscle atrophy or trauma, abnormality or injury that is consistent with a deteriorating condition. In short, claimant has restricted himself from tasks associated with occupational functioning based upon his reports of pain (symptoms) rather than medical findings. Reported symptoms are an insufficient basis upon which a finding that

claimant has met the evidentiary burden of proof can be made. This Administrative Law Judge finds that the medical record is insufficient to establish that claimant has a severely restrictive physical impairment.

Claimant alleges the following disabling mental impairments: anxiety, depression and personality disorder

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, App. 1, 12.00(C).

There is insufficient objective medical/psychiatric evidence in the record indicating claimant suffers severe mental limitations. There is a mental residual functional capacity assessment in the record. There is insufficient evidence contained in the file of depression or a cognitive dysfunction that is so severe that it would prevent claimant from working at any job. Claimant was oriented to time, person and place during the hearing. Claimant was able to answer all of the questions at the hearing and was responsive to the questions. The evidentiary record is insufficient to find that claimant suffers a severely restrictive mental impairment. For these reasons, this Administrative Law Judge finds that claimant has failed to meet his burden of proof at Step 2. Claimant must be denied benefits at this step based upon his failure to meet the evidentiary burden.

If claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of claimant's condition does not give rise to a finding that he would meet a statutory listing in the code of federal regulations.

If claimant had not already been denied at Step 2, this Administrative Law Judge would have to deny him again at Step 4 based upon his ability to perform his past relevant work. There is no evidence upon which this Administrative Law Judge could base a finding that claimant is unable to perform work in which he has engaged in, in the past. Therefore, if claimant had not already been denied at Step 2, he would be denied again at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

At Step 5, the burden of proof shifts to the department to establish that claimant does not have residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in

the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

**Sedentary work.** Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

**Light work.** Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

Claimant has submitted insufficient objective medical evidence that he lacks the residual functional capacity to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do light or sedentary tasks if demanded of him. Claimant's activities of daily living do not appear to be very limited and he should be able to perform light or sedentary work even with his impairments. Claimant has failed to provide the necessary objective medical evidence to establish that he has a severe impairment or combination of impairments which prevent him from performing any level of work for a period of 12 months. The claimant's testimony as to his limitations indicates that he should be able to perform light or sedentary work.

There is insufficient objective medical/psychiatric evidence contained in the file of depression or a cognitive dysfunction that is so severe that it would prevent claimant from working at any job. Claimant was able to answer all the questions at the hearing and was responsive to the questions. Claimant was oriented to time, person and place during the hearing. Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to claimant's ability to perform work. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant has no residual functional capacity. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he cannot perform light or sedentary work even with his impairments. Under the Medical-Vocational guidelines, a younger individual (age 35), with a high school education and an unskilled work history who is limited to light work is not considered disabled.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance, and Retroactive Medical Assistance benefits. The claimant should be able to perform a wide range of light or sedentary work even with his impairments. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED.

/s/ \_\_\_\_\_  
[Redacted Signature]

Date Signed: \_\_\_\_\_ [Redacted]

Date Mailed: \_\_\_\_\_ [Redacted]

**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.

[Redacted]