

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201121166
Issue No: 2009
Case No: [REDACTED]
Hearing Date: June 1, 2011
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 June 1, 2011. The claimant appeared and testified.

ISSUE

Is claimant currently performing Substantial Gainful Activity (SGA)?

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 is currently employed as follows:
 - a. Foster care provider since 2007, earning [REDACTED]
 - b. Home healthcare working 15-25 hours a week at [REDACTED] an [REDACTED] since September 2007, and
 - c. Chore provider earning [REDACTED] h, since February 2011.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The facts above are undisputed:

"Disability" is:

...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.

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. The first Step is:

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).

At Step 1, the evidence establishes that the claimant is currently engaged in SGA.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

Your earnings will show that you have engaged in SGA if your earnings average more than \$1,000.00 a month in calendar year 2011. 20 CFR 416.974 (b)(1).

The undisputed facts above show that the claimant's earnings as a foster care provider (\$2,300/month) are exempt under BEM 503, page 2. But based on the home healthcare earnings of [REDACTED] an hour (15-25 hours a week) at 20 hours equals [REDACTED] a month, plus the [REDACTED] month from the chore provider equals [REDACTED]. The claimant's income exceeds the SGA income limit.

Therefore, the DHS has established SGA, as defined above, by the necessary competent, material, and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the claimant is currently performing SGA .

Accordingly, proposed MA termination is UPHELD.

/s/

William Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 15, 2011

Date Mailed: June 15, 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 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.

WAS/ar

cc:

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