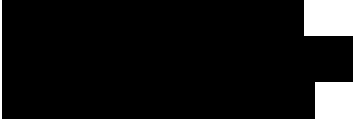


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-41143
2010-16304
Issue No: 2009
Case No: [REDACTED]
Hearing Date:
March 24, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on March 24, 2010. Claimant personally appeared and testified. Claimant was represented at the hearing by L & S Associates.

This hearing was originally held by Administrative Law Judge Marlene B. Magyar. Judge Magyar is no longer affiliated with the Michigan Administrative Hearing System for the Department of Human Services and this hearing decision was completed by Administrative Law Judge Landis Y. Lain by considering the entire record.

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 August 12, 2009, claimant filed an application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro MA-P) benefits alleging disability.
2. On September 3, 2009, the Medical Review Team (MRT) denied claimant's application stating that claimant could perform other work pursuant to

Medical Vocational Rule 202.14 stating that claimant can do light work that is not around dangerous machines or heights.

3. On September 9, 2009, the department caseworker sent claimant notice that his application was denied.
4. On December 28, 2009, claimant's representative filed a request for a hearing to contest the department's negative action.
5. On January 29, 2010, the State Hearing Review Team (SHRT) again denied claimant's application stating in its analysis and recommendation: The claimant does not meet/equal any listing. The claimant's condition would necessitate typical seizure precautions. The claimant's past relevant work involved the use of potentially dangerous machinery. 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 work with no psychiatric or physical limitations other than: avoid the use of all ropes, ladders, scaffolding and being around unprotected heights and dangerous machinery. Therefore, based on the claimant's vocational profile of 53 years old, high school education and a history of medium, skilled employment, Medicaid-P is denied using Vocational rule 204.00 as a guide. Retroactive Medicaid-P was considered in this case and is also denied. State disability was not applied for by the claimant. Listings 11.02, 11.03, and 13.01 were considered in this determination.
6. The hearing was held on March 24, 2010. 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 September 13, 2010.
8. On September 21, 2010,, 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 equivalence level. The collective medical evidence shows that the claimant is capable of performing a wide range of light work. 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 light work. Therefore, based on the claimant's vocational profile of closely approaching advanced age, limited education and a semi-skilled work history, MA-P is denied using Vocational Rule 202.22 as a guide. Retroactive MA-P was considered in this case and is also denied.

9. On the date of hearing, claimant was a 53-year-old man whose birth date is [REDACTED]. Claimant earned certification as a surgical technician and is a high school graduate.
10. Claimant last worked in approximately 2004 for Wohlert Corporation and he also worked for an auto shop manufacturing company Demmer Inc.
11. Claimant alleges as disabling impairments: Non Hodgkin's Lymphoma and a seizure disorder.
12. On May 20, 2011, Administrative Law Judge Lain signed a Decision and Order Affirming the department's decision to deny claimant's eligibility for Medical Assistance, retroactive Medical Assistance and State disability Assistance.
13. On February 22, 2011, the Social Security Administration approved claimant's application for RSDI with a disability onset date of May 20, 2009.
14. On June 17, 2011, 2011, L and S associates filed a request for reconsideration in light of the fact that the Social Security Administration approved claimant for RSDI.
15. On October 19, 2011, Administrative Law Judge Marya A. Nelson-Davis ordered the motion for reconsideration be granted.

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 Requested 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.

A person eligible for Retirement, Survivors and Disability Insurance (RSDI) benefits based on his disability or blindness meets the disability or blindness criteria. Disability or blindness starts from the RSDI disability onset date established by the Social Security Administration (SSA). This includes a person whose entire RSDI benefit is being withheld for recoupment. No other evidence is required. BEM, Item 260, page 1

On February 22, 2011 the Social Security Administration determined that claimant was eligible for Retirement, Survivors and disability Insurance (RSDI) with a disability onset date of May 20, 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 was not disabled. 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 February 22, 2011 decision by the Social Security Administration that found claimant disabled under Social Security rules with an RSDI disability onset date of May 20, 2009, that claimant meets the definition of medically disabled under the medical assistance and retroactive medical assistance program as of the August 12, 2009 application

date and for the prior three months based upon the retroactive Medical Assistance Application.

Accordingly, May 20, 2011 decision to deny claimant eligibility for Retroactive Medical Assistance benefits is hereby **VACATED**. The department is **ORDERED** to initiate a review of the August 12, 2009 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 for the months of May 2009 forward. 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 June 2012.

/s/

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

Date Signed: December 16, 2011


Date Mailed: December 16, 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.

LYL/ds

cc:


L & S Associates
Ingham County DHS


DHS-DDS
L. Y. Lain
Administrative Hearings