

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-52535
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: December 5, 2011
DHS County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was conducted on December 5, 2011, from Detroit, Michigan. Claimant appeared and testified at the hearing. [REDACTED] appeared and testified on behalf of the Department of Human Services (Department).

ISSUE

Whether Claimant's disability meets the medical criteria for eligibility for Medical Assistance (MA or Medicaid), MA-retroactive and State Disability Assistance (SDA) benefits?

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 fact:

1. From February-April 2011, Claimant was employed as a driver with [REDACTED] [REDACTED] for about two months.
2. Claimant worked forty hours per week and was paid \$7.15 per hour.
3. Claimant earned more than \$1,000 in the past year.
4. On April 20, 2011, Claimant was laid off from her job at [REDACTED] due to the employer's financial problems.
5. On May 12, 2011, Claimant applied for MA, MA-retroactive and SDA benefits.

6. On August 24, 2011, the Department determined that Claimant was not disabled, denied her application, and sent notice of the denial to Claimant.
7. On September 6, 2011, Claimant requested an administrative hearing with the Department.

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 400.1 *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

SDA provides financial assistance for disabled persons and is established by 2004 Michigan Public Acts (PA) 344. The Department administers SDA pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3151-400.3180. Department policies are found in BAM, BEM AND RFT. *Id.*

Federal regulations require that the Department must use the same operative definition for “disabled” as the Federal government uses for Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act. 42 CFR 435.540(a). That definition is as follows:

“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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the finder of fact to follow a sequential five-step evaluation process by which current work activity, the severity of impairment(s), residual functional capacity, and vocational factors (age, education, and work experience) are assessed, in that order.

A determination that an individual is *not* disabled can be made at any of the five steps. A determination that an individual *is* disabled can be made only at the third, fourth or fifth steps. If the fact finder finds disability at Steps 3, 4 or 5, it is not necessary to continue the evaluation through subsequent steps.

1. Current Substantial Gainful Activity

Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities. 20 CFR 416.972(a). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized. 20 CFR 416.972(b). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the Federal regulations, it is presumed that she or he has the demonstrated ability to engage in SGA. 20 CFR 416.974 and 416.975. If an individual engages in SGA, she or he is not disabled regardless of how severe the physical and mental impairments are and regardless of age, education and work experience. If the individual is not engaged in SGA, the analysis proceeds to the second step.

The current Federal maximum annual income is \$1,000. In this case, it is found and determined that Claimant engaged in SGA during the past year and earned over the maximum amount of \$1,000.

Accordingly, I find that Claimant is not disabled. Claimant is disqualified from MA and SDA benefits at Step 1 of the five-step sequential qualifying step approval process.

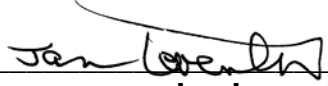
Although the Department denied benefits for a different reason, this constitutes harmless error on the Department's part.

The Department is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, AFFIRMS the Department's denial of MA and SDA benefits in this case. Claimant engaged in Substantial Gainful Activity in the past year and is not disabled from work.

The Department is AFFIRMED. The Department need take no further action in this case.



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

Date Signed: December 13, 2011

2011-52535/JL

Date Mailed: December 13, 2011

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.

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:

