

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

IN THE MATTER OF:

Reg. No: 2011-53959  
2010-26838  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date:  
June 9, 2010  
Ogemaw County DHS

**ADMINISTRATIVE LAW JUDGE:** Landis Y. Lain

**RECONSIDERATION 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 [REDACTED].

This hearing was originally held by Administrative Law Judge [REDACTED]. This reconsideration decision was completed by Administrative Law Judge [REDACTED] 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 October 16, 2009, claimant filed an application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro MA-P) benefits alleging disability.
2. On November 24, 2009, the Medical Review Team (MRT) denied claimant's application stating that claimant could perform other work pursuant to Medical Vocational Rule 202.18.
3. On August 5, 2011, Administrative Law [REDACTED] 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.

4. On September 10, 2010, the Social Security Administration approved claimant's application for RSDI with a disability onset date of January 6, 2007.
5. On August 11, 2011, L and S Associates filed a request for reconsideration in light of the fact that the Social Security Administration approved claimant for RSDI.
6. On October 19, 2011, Administrative Law [REDACTED] 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 September 10, 2010, the Social Security Administration determined that claimant was eligible for Retirement, Survivors and disability Insurance (RSDI) with a disability onset date of January 6, 2007. 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 September 10, 2010 decision by the Social Security Administration that found claimant disabled under Social Security rules with an RSDI disability onset date of May 6, 2007, that claimant meets the definition of medically disabled under the medical assistance and retroactive medical assistance program as of the October 16, 2009 application date and for the prior three months based upon the retroactive Medical Assistance Application.

Accordingly, September 10, 2010 decision to deny claimant eligibility for Retroactive Medical Assistance benefits is hereby **VACATED**. The department is **ORDERED** to initiate a review of the October 16, 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 is also **ORDERED** to determine eligibility for State disability Assistance.

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

