

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-19227
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: February 29, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on February 29, 2012, from Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED].

ISSUE

Did the Department properly determine that Claimant is not disabled for purposes of the Medical Assistance (MA-P) program?

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. On September 16, 2011, Claimant filed an application for MA benefits. The application requested MA-P retroactive to June 1, 2011.
2. On November 7, 2011, the Department denied Claimant's application for benefits based on a finding that Claimant did not meet the requisite disability criteria.
3. On December 9, 2011, Claimant filed a hearing request to protest the Department's determination.
4. Claimant, age forty-eight [REDACTED] has a twelfth-grade education.

5. Claimant last worked in June 2011 as a welder operator. Claimant also performed relevant work as a machine operator, product coater, and other automotive production work. Claimant's relevant work history consists of all exertional levels of unskilled and semi-skilled work activities.
6. Claimant has a history of low back pain and radiculopathy in both legs.
7. Claimant was not hospitalized for her impairments.
8. Claimant currently suffers from severe low back pain and bilateral radiculopathy.
9. Claimant has severe limitations upon her ability to stand, sit, walk, lift and carry, and activities of daily living. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

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 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

1. Is Claimant engaged in substantial gainful activity? NO.

If the answer to Question 1 is YES, Claimant is not disabled and may not receive MA benefits. An explanation is provided below.

If the answer is NO, go ahead to Question 2.

2. Does Claimant's impairment(s) meet the severity and the one-year durational requirements? YES.

If the answer to Question 2 is YES, go ahead to Question 3.

If the answer to Question 2 is NO, Claimant is not disabled and may not receive MA benefits. An explanation is provided below.

3. Does Claimant's impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent? YES.

If the answer to Question 3 is YES, state the Impairment Listing No(s). 1.04, Disorders of the spine. Do not go ahead to Questions 4 and 5. Claimant is disabled at Step 3 and has established MA disability. If the answer to Question 3 is NO, go ahead to Question 4.

Additionally, based on the criteria of listing 1.04 *Disorders of the Spine*, the undersigned finds that Claimant's medical records and other evidence of record substantiate that Claimant's medical impairment meets or is medically equivalent to the listed requirements. 20 CFR 404 §1.04 describes Disorders of the Spine as follows:

Disorders of the Spine (e.g. herniated nucleus, pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

- A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine); or...20 CFR 4.04, Sec. 1.04A.

In this case, Claimant's physician conducted an EMG which showed "moderate bilateral L5-S1 radiculopathy, left greater than right." In [REDACTED] also advised Claimant, after she suffered a work-related injury to her lower back, that she could not return to welding work.

Claimant's back and leg impairment began on [REDACTED], when she first noticed leg muscle failure at work and reported it to her supervisor.

Claimant's testimony supports a conclusion that she is limited in the activities of daily living such as bathing, shopping, walking without a cane, and sitting and standing for more than 5-10 minutes. She cannot carry more than her purse, which weighs 3-5 lbs.

Accordingly, this Administrative Law Judge concludes that Claimant is disabled for purposes of the MA program. The Department's denial of MA benefits to Claimant is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides and concludes that Claimant meets the definition of medically disabled under the Medical Assistance program as of April 15, 2011.

The Department is REVERSED, and is ordered to:

1. Initiate a review of Claimant's September 16, 2011, application, if it has not already done so, to determine if all nonmedical eligibility criteria for MA and MA-retroactive benefits have been met;
2. Initiate procedures to inform Claimant of its determination in writing, and provide MA-P, and MA-P retroactive benefits to Claimant at the benefit levels to which she is entitled;
3. Assuming that Claimant is eligible for program benefits, initiate procedures to review Claimant's continued eligibility for program benefits in April 2013.
4. All steps shall be taken in accordance with Department policy and procedure.



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

Date Signed: March 1, 2012

Date Mailed: March 1, 2012

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:

