

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-24089
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 9, 2012
County: Wayne (82-82)

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 hearing was held on April 9, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant and her Authorized Hearing Representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) 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 material fact:

1. On November 16, 2011, Claimant filed an application for Medicaid benefits. The application also requested MA retroactive to August 1, 2011.
2. On December 20, 2011, the Department sent a Notice of Case Action to Claimant, denying her application.
3. On December 29, 2011, Claimant filed a hearing request appealing the Department's denial.
4. Claimant, age fifty-one [REDACTED] has a high-school education.

5. Claimant last worked in or before 1997.
6. Claimant has a history of inflammatory bowel disease (IBD).
7. Claimant was hospitalized and had surgery [REDACTED] as a result of IBD. The discharge diagnosis was left colon obstruction, right colon ischemia, diverticulitis and abdominal pain. Claimant was hospitalized for surgery a second time from [REDACTED], for reverse ileostomy and primary anastomosis to put her bowels back in continuity.
8. Claimant currently suffers from IBD.
9. Claimant has severe limitations of her ability to perform activities of daily living due to fatigue, and requires assistance with these activities. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning these impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, 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).

SDA provides financial assistance for disabled persons and was established by 2004 PA 344. The Department administers SDA pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and RFT.

The Administrative Law Judge concludes and determines that Claimant **IS NOT DISABLED** for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.
2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.
3. Claimant is capable of performing previous relevant work.
4. Claimant is capable of performing other work.

The Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's physical and/or mental impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

Listing of Impairment No.:

5.00 Digestive System

5.06 Inflammatory bowel disease (IBD) documented by endoscopy, biopsy, appropriate medical imagery or operative findings with:

A. Obstruction of stenotic areas (not adhesions) in the small intestine or colon with proximal dilatation, confirmed by appropriate medically acceptable imaging or in surgery, requiring hospitalization for intestinal decompression or for surgery, and occurring on at least two occasions at least 60 days apart within a consecutive 6-month period. Listing of Impairment 5.06A, 20 CFR Chapter III, Appendix 1 to Subpart P of Part 404-Listing of Impairments.

OR

2. Claimant is not capable of performing other work.

In this case, Claimant's medical records document that Claimant has IBD due to a bowel obstruction. The medical records confirm that surgeries were conducted and required hospitalization. Finally, Claimant required two surgeries sixty days apart and within a six-month period. It is found and determined that Claimant meets the requirements of medical eligibility as specified in Listing of Impairment 5.06A. *Id.*

Furthermore, at the hearing, Claimant and her daughter testified to Claimant's fatigue and her need for assistance with activities of daily living. It is found and determined that Claimant's testimony is consistent with the medical history presented in this case.

There are two additional required findings in this case, which are that Claimant must not be engaged in substantial gainful activity, and her impairment must be of sufficient severity and duration so as to be anticipated to last at least one year. It is found and determined, based on Claimant's testimony, that Claimant has not been engaged in substantial gainful activity since 1997, Claimant's onset date is [REDACTED], and her impairment is anticipated to last at least one year.

Based on the Findings of Fact and Conclusions of Law above, Claimant is found to be

NOT DISABLED. **DISABLED.**

for purposes of the MA program. The Department's denial of MA benefits to Claimant is

AFFIRMED. **REVERSED.**

Although Claimant has not applied for SDA benefits, she may now be eligible for them by virtue of this decision. In order to be eligible for SDA, an individual must have a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits, if she chooses to apply for them.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record finds that Claimant

DOES NOT MEET **MEETS**

the definition of medically disabled under the MA program as of the onset date of [REDACTED].

Accordingly, the Department's decision is

AFFIRMED. **REVERSED.**

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate processing of Claimant's November 16, 2011, application, to determine if all nonmedical eligibility criteria for MA and MA retroactive benefits have been met;
2. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate processing of MA and MA retroactive benefits to Claimant, including any supplements for lost benefits to which Claimant is entitled in accordance with policy;
3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits no earlier than June 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: May 24, 2012

Date Mailed: May 29, 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:

