

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-25809  
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, an in-person hearing was held on April 9, 2012, in Detroit, Michigan. Participants on behalf of Claimant included Claimant, Claimant's husband, [REDACTED], and Claimant's 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 July 8, 2011, Claimant filed an application for MA benefits. The application also requested MA retroactive to April 1, 2011.
2. On October 10, 2011, a Notice of Case Action was sent to Claimant advising her that the application was denied.
3. On January 6, 2012, Claimant filed a hearing request appealing the Department's denial.
4. Claimant, age forty-four [REDACTED] has a high-school education.

5. Claimant last worked in 2008 as a receptionist. Claimant also performed relevant work as a bus driver, an optical lensmaker, and a packer in a warehouse. Claimant's relevant work history consists exclusively of unskilled work activities requiring medium exertional effort.
6. Claimant has a history of deep vein thrombosis, pulmonary embolism, diabetes, hypertension, diabetic neuropathy affecting the right leg, mild pulmonary insufficiency, and left hip and lower back pain. Her onset date is [REDACTED], when she had her first pulmonary embolism and a blood clot in her leg.
7. Claimant was hospitalized [REDACTED], as a result of deep vein thrombosis and acute dyspnea of unclear etiology.
8. Claimant currently suffers from deep vein thrombosis, pulmonary embolism, diabetes, hypertension, diabetic neuropathy affecting the right leg, mild pulmonary insufficiency, and left hip and lower back pain.
9. Claimant has severe limitations of her ability to sit, stand, lift and carry, walk, drive, and use her hands and arms. 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 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 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.

State the Impairment Listing No.:

9.08-Diabetes Mellitus with:

- A. Neuropathy demonstrated by significant and persistent disorganization of motor function in two extremities resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C). Appendix 1, 20 CFR, Subpart P, Listing of Impairment 9.08A.

2 Claimant is not capable of performing other work.

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.

In addition, Claimant gave credible and un rebutted testimony that her primary care physician, [REDACTED] told Claimant that she had diabetic neuropathy. This diagnosis may also be indicated on the right foot MRI examination. Claimant's right leg and left arm and hand require braces. She experiences hand and leg spasms and neuropathy symptoms in all four extremities. She has fatigue, sleep difficulty, difficulty walking, sitting, standing, and lifting and carrying more than two gallons of milk. She does not engage in housework and her family helps her out. She uses a motorized cart at the grocery store. She experiences numbness from her ankle to toe of her right foot. Because of the problems with her right foot, she has not driven in some time. She is in chronic pain and takes prescription medication for diabetes, high blood pressure, breathing, pain, spasms, nerves, and depression. [REDACTED] has not specifically restricted Claimant from working, but she has advised Claimant just to try and do more around the house.

It is found and concluded that Claimant's testimony, the medical records, and all of the evidence in this case taken as a whole, support a conclusion that Claimant is disabled within the meaning of the federal Listing of Impairment 9.08-Diabetes mellitus. Claimant has only nominal use of her extremities, her gait and carrying strength are limited, and she experiences neuropathy in her extremities accompanied by muscle spasms. This constitutes significant and persistent disorganization of motor function in two extremities, as specified in Listing of Impairment 9.08A. This impairment further constitutes sustained disturbance of gross and dexterous movements, and disturbances in her gait and station, within the meaning of Listing 9.08A.

In conclusion, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be

**DISABLED**                       **NOT DISABLED**

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

**AFFIRMED**                       **REVERSED**

While Claimant did not apply for SDA, she may be eligible for this benefit by virtue of this decision. In order to be disabled for purposes of SDA, the individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 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 in this decision, Claimant must also be found disabled for purposes of SDA benefits.

#### **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

**meets**                       **does not meet**

the definition of medically disabled under the Medical Assistance as of the onset date of 2007.

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 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 in May 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: April 17, 2012

Date Mailed: April 17, 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:

