

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-27545
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 and his 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 September 30, 2011 Claimant filed an application for MA benefits. The application also requested MA retroactive to June 1, 2011.
2. On December 20, 2011, a Notice of Case Action was sent to Claimant advising Claimant his application was denied.
3. On January 26, 2012, Claimant filed a hearing request appealing the Department's denial.
4. Claimant, age fifty-six [REDACTED] has a tenth-grade education.

5. Claimant has no work history of any kind.
6. Claimant was hospitalized [REDACTED], as a result of a central nervous system vascular accident (CVA) and an intracranial brain hemorrhage. The discharge diagnosis was post-thalamic hemorrhagic stroke. From [REDACTED], he received inpatient treatment at the Rehabilitation Institute of Michigan.
7. Claimant currently suffers from lingering cognitive deficits.
8. Claimant has severe limitations in his ability to see, think clearly, pay attention, and handle medications and financial matters. Claimant's limitations have lasted or are expected to last twelve months or more.
9. Claimant's complaints and allegations concerning his 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 the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the 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 DISABLED** for purposes of the MA program, for the following reason:

Claimant is not capable of performing other work. 20 CFR 416.920(f).

First, it is found and determined that Claimant's impairments do not meet the standard of the federal Listing of Impairment 11.04, "Central nervous system vascular accident (CVA)," which requires medical documentation of sensory or motor aphasia resulting in ineffective speech or communication; or, medical documentation of significant and persistent disorganization of motor function in two extremities resulting in sustained disturbances of gross and dexterous movements, or gait and station.

Claimant has not had medical treatment since his stroke and the requirements of the Listings cannot be formally established in this case.

The Claimant in this case is a fifty-six-year-old man who suffered a stroke in [REDACTED]. It is found and determined that Claimant was not engaged in substantial gainful activity for at least one year prior to the stroke. It is further found and determined, based on the report referenced below, that his impairments are serious and will last more than one year.

Because Claimant is not disabled solely on his medical impairment, an analysis of his employability must be conducted. As Claimant had no substantial gainful activity for the past fifteen years, he cannot be found to be able to perform relevant work, and the next step to consider is whether Claimant is capable of any other work. The report of [REDACTED] Claimant's rehabilitation psychologist at the [REDACTED], presented five observations and three instructions regarding Claimant's impairments and employability:

[REDACTED] five observations were:

While [REDACTED] [REDACTED] is oriented to person, time (*sic*) independently he required cues to accurately provide the place and situation.

Perseverating on getting out of his double lock belt and on money.

Thought process remains confused.

Impaired attention.

Mildly anxious due to perseverations.

[REDACTED] three instructions were:

Continues to **require 24-hour supervision** at this time due to lingering cognitive deficits.

It is recommended that family **assist with medication and financial** management.

At this time, [REDACTED] would have **difficulty returning to work or driving a car.**

Department Exhibit 1, p. 118. [Emphasis added.]

It is found and determined that [REDACTED] remarks constitute a full work restriction upon Claimant. Claimant requires 24-/ supervision, he cannot take medication on his own, he cannot handle financial matters, he would have difficulty returning to work, and he

cannot drive. These observations and instructions support a conclusion that Claimant is not capable of performing any other work.

In conclusion, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be **DISABLED** for purposes of the MA program. The Department's denial of MA benefits to Claimant is **REVERSED**.

Although Claimant did not apply for SDA, he may now become eligible for SDA by virtue of this decision. An 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 Item 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits, if he should choose 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

meets **does not meet**

the definition of medically disabled under the Medical Assistance program as of the onset date of September 15, 2011.

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 September 30, 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 for 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:

