

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-36296
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 3, 2012
County: Wayne (82-19)

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 May 3, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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 October 27, 2011, Claimant filed an application for Medicaid benefits. The application also requested MA retroactive to July 1, 2011.
2. On February 14, 2012, the Department sent Claimant a Notice of Case Action denying her application.
3. On February 27, 2012, Claimant filed a hearing request appealing the Department's denial to the Michigan Administrative Hearing System.
4. Claimant, age fifty-two [REDACTED], has a tenth-grade education.

5. Claimant last worked from 1999-2004 as a bartender. She performed no other work in the past fifteen years. Claimant's relevant work history consists exclusively of unskilled medium-weight exertional work activities.
6. Claimant has a history of rheumatoid arthritis with an onset date of [REDACTED]. She also has diverticulitis, bilateral knee pain, lower back pain, hypothyroidism and anemia.
7. Claimant was seen in the Emergency Department twice in [REDACTED] [REDACTED] for diverticulitis. Her discharge instructions were to follow up with her family doctor and get a colonoscopy.
8. Claimant currently suffers from rheumatoid arthritis, diverticulitis, bilateral knee pain, lower back pain, hypothyroidism and anemia.
9. Claimant has severe limitations of the ability to sit, stand, walk, sleep and bathe. 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 the medical evidence, and 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).

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.

OR

2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.

OR

3. Claimant is capable of performing previous relevant work.

OR

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.

State the Listing of Impairment(s):

14.09A1 – Inflammatory arthritis. As described in 14.00D6.
With:

A. Persistent inflammation or persistent deformity of:

1. One or more major peripheral weight-bearing joints resulting in the inability to ambulate effectively (as defined in 14.00C6).

OR

2. Claimant is not capable of performing other work.

The following is an examination of Claimant's eligibility as required by the federal Code of Federal Regulations (CFR). 20 CFR Ch. III, Secs. 416.905, 416.920. The State of Michigan is required to use the five-step Medicare eligibility test in evaluating applicants for the State's Medicaid disability program.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since 2004. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, and Claimant is not engaged in substantial gainful activity. Department Exhibit 1, p. 61.

Second, in order to be eligible for MA, Claimant's impairment must be sufficiently serious and be at least one year in duration. In this case, Claimant's onset date of rheumatoid arthritis is [REDACTED], when it was diagnosed by [REDACTED] Claimant's family physician. Claimant treated for this impairment with [REDACTED], on at least four occasions in [REDACTED]. At the hearing on May 3, 2012, Claimant testified that her condition has continued to this time. *Id.*, pp. 6, 11, 24-27, 70-71, 77-79; Claimant Exhibits 1, 3, and 7.

Based on the above evidence in the record, it is found and determined that Claimant's condition is of the severity and duration to meet the requirement of the second step of the eligibility evaluation. The third step of the evaluation is considered next.

Turning to the third requirement for MA eligibility approval, the factfinder must determine if Claimant's impairment is listed as an impairment in the federal Listing of Impairments found at 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments. In this case, it is found and determined that Claimant's impairment meets the definition in Listing 14.09A1, Inflammatory Arthritis. This Listing is set forth above in full.

In addition, a more detailed description is set forth in Listing of Impairment 14.00D6a, Inflammatory arthritis (14.09) – General:

The spectrum of inflammatory arthritis includes a vast array of disorders that differ in cause, course, and outcome. Clinically, **inflammation of major peripheral joints may be the dominant manifestation causing difficulties with ambulation** or fine and gross movements; **there may be joint pain, swelling, and tenderness**. The arthritis may affect other joints, or cause less limitation in ambulation or the performance of fine and gross movements. However, in combination with extra-articular features, including constitutional symptoms or signs (severe fatigue, fever, malaise, involuntary weight loss), inflammatory arthritis may result in an extreme limitation. Listing of Impairment 14.00D6a (boldface added for emphasis).

In this case, Claimant reported that she was diagnosed with rheumatoid arthritis by her family physician in [REDACTED]. Claimant's medical records indicate that on [REDACTED] she began treating with [REDACTED]. He diagnosed rheumatoid arthritis on that date, and repeated the diagnosis again on [REDACTED] as her primary complaint. *Id.*

X-rays from [REDACTED], indicate that Claimant has bilateral effusion of the suprapatellar joints. This test provides confirmation of [REDACTED] diagnosis. *Id.*, pp. 24-27.

In addition, Claimant's answers to Department questionnaires and her testimony at the hearing are consistent with the medical diagnosis of rheumatoid arthritis. Claimant advised the Department on December 16, 2011, that she could not stand for more than 5-10 minutes at a time without extreme pain; she can sit no more than ½ hour without pain; she cannot climb stairs unless there is no other option; and she uses a motorized cart at the grocery store. She takes naps during the day. *Id.*, pp. 7, 8.

Claimant advised her family physician that she has lower back pain sometimes, her hands swell and she experiences weakness in her hands, and she has fatigue and

recurrent bouts of diverticulitis. ██████████ observed positive bilateral patellar reflexes upon examination. *Id.*, pp. 10-11.

Claimant described her activities of daily living in a Department Questionnaire as follows: Claimant naps a few times during the day; she cannot stay asleep because of pain in her knees; she experiences fatigue; she shops for groceries only once a month; and she is tired all the time. *Id.*, pp. 59-63.

Additionally, at the hearing, Claimant testified that her right knee feels swollen all the time, but her left knee is not as bad. She does as little housework as possible because of pain, and her sister helps her with the housework. She can no longer engage in recreational activities she previously enjoyed, such as riding in northern Michigan on a four-wheeler all-terrain vehicle. She cannot walk more than ½ block, and she “hangs onto things” in order to avoid falling. She uses a shower chair.

Claimant testified that she does not feel like doing anything. She sees other people only if they come to visit her. She is not active in any group activities.

Claimant testified that her next appointment with ██████████ is in ██████████. He has advised her she may need bilateral knee replacement surgery.

Based upon all of the above evidence of record and the entire record considered as a whole, it is found and determined that Claimant meets the requirements of Listing of Impairment 14.09A1, Inflammatory arthritis, or its equivalent. Claimant has presented x-rays, a diagnosis by a rheumatologist, records of treatment, signs and symptoms, and limitations in her activities of daily living, which are consistent with Listing of Impairment 14.09A1. It is found and determined that Claimant has satisfied the requirements of the third step of the MA eligibility approval process and is, therefore, eligible for MA and retroactive MA benefits.

In conclusion, based on the Findings of Fact and Conclusions of Law above, the 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

While Claimant has not applied for SDA, she may be eligible for this program by virtue of this decision. In order to become eligible, 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

in this decision for purposes of MA, she must also be found disabled for purposes of SDA benefits, if she 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

DOES NOT MEET MEETS

the definition of medically disabled under the Medical Assistance program as of the onset date of March 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 October 27, 2011 application to determine if all nonmedical eligibility criteria for MA and retroactive MA 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 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, a redetermination date for review of Claimant's continued eligibility for program benefits shall be no earlier than July 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: June 20, 2012

Date Mailed: June 20, 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:

