

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-37121  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: May 31, 2012  
County: Bay

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge upon the Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, an in-person hearing was commenced on May 31, 2012, from Lansing, Michigan. Claimant, represented by [REDACTED] of [REDACTED] personally appeared, with his wife, and testified. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] [REDACTED]

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team (SHRT) for consideration. On August 28, 2012, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

**ISSUE**

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P) and Retro-MA benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On September 30, 2011, Claimant filed an application for MA/Retro-MA benefits alleging disability.
- (2) On December 21, 2011, the Medical Review Team (MRT) denied Claimant's application for MA-P/Retro-MA indicating that Claimant was capable of performing other work, pursuant to 20 CFR 416.920(f).

- (3) On March 1, 2012, the department sent notice to Claimant that his application for Medicaid had been denied.
- (4) On March 5, 2012, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On April 20, 2012, the State Hearing Review Team (SHRT) upheld the denial of MA-P and Retro-MA benefits indicating that Claimant retains the capacity to perform light work. (Department Exhibit B, pp 1-2).
- (6) On August 28, 2012, the SHRT reviewed the newly submitted evidence and upheld the denial of MA -P and Retro-MA benefits indicating Claimant retains the capacity to perform a wide range of light, unskilled work. (Department Exhibit C, pp 1-2).
- (7) Claimant has a history of depression, bipolar disorder, scoliosis, arthritis, acute deep vein thrombosis, transient ischemic attacks (TIA) and osteoarthritis.
- (8) On July 24, 2011, Claimant was admitted to the hospital with an acute deep venous thrombosis of the common femoral extending into the greater saphenous junction. He had a known history of bipolar disorder and transient ischemic attack. The chest x-ray showed platelike Atelectasis of the left lung base. Claimant was discharged in stable condition on July 27, 2011 with Coumadin, Lovenox, Omoprazolo, Theragran, Thiamine, Aspirin, Cogontin, Prozac, Zyprexa, Vicodin and Tylenol. He was instructed to follow-up in one week and to go to the Medical Center for management of anticoagulation. Final diagnoses: Acute deep vein thrombosis of the right lower extremity, Bipolar disorder, History of transient ischemic attack and Osteoarthritis. (Department Exhibit A, pp 33-43).
- (9) On January 10, 2012, Claimant underwent a psychiatric evaluation. He had attempted suicide at the age of 15. He had been under psychiatric care the past three years at the time of the evaluation. He had had severe head trauma from an accident at work and was hit once by a car. He had a heart attack in 2008 and a transient ischemic attack two years ago. Diagnosis: Axis I: Bipolar affective disorder, history of alcohol abuse in remission; Axis III: History of heart attack, transient ischemic attack, head trauma, blood clot in leg; Axis V: GAF=50. (Claimant Exhibit B, 1-2).
- (10) On April 10, 2012, Claimant was diagnosed with Factor 5 Leiden deficiency. His INR was 3.6 and his Coumadin dose was 3.5 mg daily. He was instructed to return the following week for a recheck. (Claimant Exhibit B, p 11).

- (11) On April 30, 2012, at Claimant's weekly INR check, his INR was 1.4 and he was instructed to increase his Coumadin to 4 mg daily and return in a week. (Claimant Exhibit B, p 10).
- (12) On May 7, 2012, Claimant saw his primary care physician for his weekly INR check. His INR was sub-therapeutic at 1.3 and he was instructed to increase his Coumadin to 5 mg daily. (Claimant Exhibit B, p 9).
- (13) On May 14, 2012, Claimant's INR was 3.5, and he was instructed to decrease his Coumadin dosage to 4 mg daily. (Claimant Exhibit B, p 8).
- (14) On May 21, 2012, during Claimant's weekly INR check, his INR was sub-therapeutic at 1.6. (Claimant Exhibit B, p 7).
- (15) On May 29, 2012, Claimant followed up with his primary care physician for his INR check. It was 1.6 and his dosage of Coumadin was increased and directed to follow-up in one week. (Claimant Exhibit B, p 6).
- (16) On June 7, 2012, Claimant saw his primary care physician for an INR check due to his taking Coumadin. His INR of 1.6 was sub therapeutic. His Coumadin dosage was increased and he was scheduled to return the following week for a recheck. (Claimant Exhibit B, p 5).
- (17) Claimant is a 42 year old man whose birthday is [REDACTED]. Claimant is 5'7" tall and weighs 160 lbs. Claimant has a high school equivalent education and last worked in construction in July, 2011.
- (18) Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program 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 Manual (RFT).

Under the Medicaid (MA) program:

"Disability" is:

. . . the inability to do any substantial gainful activity by reason of any medically determinable physical or mental

impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905.

When determining disability, the federal regulations require several factors to be considered, including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitations in light of the objective medical evidence presented. 20 CFR 416.929(c)(94).

In determining whether you are disabled, we will consider all of your symptoms, including pain, and the extent to which your symptoms can reasonably be accepted as consistent with objective medical evidence, and other evidence. 20 CFR 416.929(a). Pain or other symptoms may cause a limitation of function beyond that which can be determined on the basis of the anatomical, physiological or psychological abnormalities considered alone. 20 CFR 416.945(e).

In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about how your symptoms affect you. We will then determine the extent to which your alleged functional limitations or restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how your symptoms affect your ability to work. 20 CFR 416.929(a).

Since symptoms sometimes suggest a greater severity of impairment than can be shown by objective medical evidence alone, we will carefully consider any other information you may submit about your symptoms. 20 CFR 416.929(c)(3). Because symptoms such as pain, are subjective and difficult to quantify, any symptom-related functional limitations and restrictions which you, your treating or examining physician or psychologist, or other persons report, which can reasonably be accepted as consistent with the objective medical evidence and other evidence, will be taken into account in reaching a conclusion as to whether you are disabled. 20 CFR 416.929(c)(3).

We will consider all of the evidence presented, including information about your prior work record, your statements about your symptoms, evidence submitted by your treating, examining or consulting physician or psychologist, and observations by our employees and other persons. 20 CFR 416.929(c)(3). Your symptoms, including pain, will be determined to diminish your capacity for basic work activities to the extent that your alleged functional limitations and restrictions due to symptoms, such as pain, can reasonably be accepted as consistent with the objective medical evidence and other evidence. 20 CFR 416.929(c)(4).

In Claimant's case, the ongoing acute leg pain, inability to sit for long periods of time, shortness of breath and other non-exertional symptoms he describes are consistent with the objective medical evidence presented. Consequently, great weight and credibility must be given to his testimony in this regard.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

Claimant has not been employed since July, 2011; consequently, the analysis must move to Step 2.

In this case, Claimant has presented the required medical data and evidence necessary to support a finding that Claimant has significant physical and mental limitations upon his ability to perform basic work activities. Medical evidence has clearly established that Claimant has an impairment (or combination of impairments) that has more than a minimal effect on Claimant's work activities. See Social Security Rulings 85-28, 88-13, and 82-63.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Based on the severity of the acute deep

vein thrombosis, TIA, Heart Attack, Chronic Low Back Pain, Depression and Anxiety, this Administrative Law Judge finds that Claimant's medical records will support a finding that Claimant's impairments are equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A.

Accordingly, this Administrative Law Judge concludes that Claimant is disabled for purposes of the MA program. Consequently, the department's denial of his September 30, 2011 MA/Retro-MA application cannot be upheld.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA eligibility purposes.

Accordingly, the department's decision is **REVERSED**, and it is ORDERED that:

1. The department shall process Claimant's September 30, 2011 MA/Retro-MA application, and shall award him Retro-MA back to July 1, 2011, and all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. The department shall review Claimant's medical condition for improvement in September, 2013, unless his Social Security Administration disability status is approved by that time.
3. The department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review.

/s/

Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: September 14, 2012

Date Mailed: September 17, 2012

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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