

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201239876  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: November 28, 2012  
County: Wayne DHS (19)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on November 28, 2012, from Inkster, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) on the basis that Claimant is not a disabled individual.

**FINDINGS OF FACT**

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

1. On 8/31/10, Claimant applied for MA benefits.
2. From 8/2010 – 3/2012, Claimant was self-employed and regularly earned at least \$1,000/month in income.
3. Claimant's only basis for MA benefits was as a disabled individual.
4. On 2/3/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 7-8).

5. On 2/14/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action to inform Claimant of the denial.
6. On 3/12/12, Claimant requested a hearing disputing the denial of MA benefits.
7. On 4/23/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibit 201), in part, by application of Medical-Vocational Rule 202.10.
8. On 11/28/12, an administrative hearing was held.
9. On 12/4/12, an Interim Order was issued giving Claimant 60 days to present Claimant's medical records from 3/2012.
10. On 2/24/13, based on a request from Claimant's AHR, an Interim Order was issued giving Claimant 30 additional days to submit medical records.
11. No additional medical records were submitted.
12. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 6'3" and weight of 147 pounds.
13. Claimant has no known relevant history of alcohol or illegal substance abuse.
14. Claimant's highest education year completed was the 11<sup>th</sup> grade.
15. As of the date of the administrative hearing, Claimant had no medical coverage.
16. Claimant alleged that he is disabled based on impairments and issues including: degenerative disc disease, drop-foot, arthritis, depression, nerve damage, neck pain, sciatica and headaches.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies (see BEM 260 at 1-2):

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) 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. A functionally identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-

related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2011 monthly income limit considered SGA for non-blind individuals is \$1,000. The 2012 income limit is \$1010/month.

Claimant testified that he performed plumbing and subcontracting through 3/2012. Claimant testified that he quit doing subcontracting in 3/2012 because of back-related pain. Claimant testified that he worked 4-5 times per week. Claimant testified that his pay depended on the job. Claimant testified that his pay varied- sometimes he would make nothing and sometimes he would make \$600/week. Claimant testified that he performed this work for a period before traveling out-of-state to help with sick relatives. Claimant testified that he made \$1,000 some months and not in others. Claimant testified that all of his work was "under the table". Thus, it is impossible to verify.

Claimant's concession that he made at least \$1,000 in some months is sufficient evidence to conclude that Claimant was not disabled for any 12 month period between Claimant's application month (8/2010) and Claimant's last full month of employment (2/2012). Thus, Claimant is deemed to be not disabled through 2/2012.

Despite this finding, it is conceivable that Claimant is a disabled individual as of 3/2012. None of the presented medical records were from 3/2012 or later. Claimant's AHR was given time following the administrative hearing to submit such records, but none were submitted. Without any medical records from 3/2012 or later, it cannot be found that Claimant is disabled since 3/2012.

As it happened, a separate MA benefit application was submitted on behalf of Claimant for Claimant's hospitalization from 3/2012. That application was denied and was the subject of a second administrative decision with the undersigned. This second hearing occurred on 3/11/13. Any decision concerning Claimant's MA benefit eligibility from 3/2012 will be preserved for the hearing decision stemming from Claimant's hearing on 3/11/13.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefit application dated 8/31/10 based on a determination that Claimant is not disabled. This decision does not affect Claimant's MA benefit eligibility from 3/2012. The actions taken by DHS are AFFIRMED.



Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 3/29/2013

Date Mailed: 3/29/2013

**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

CG/hw

cc:

