

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-44357
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: June 4, 2012
County: Wayne (82-43)

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 June 4, 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) and State Disability Assistance (SDA) program(s)?

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 January 3, 2012, Claimant filed an application for MA and SDA benefits. The application also requested MA retroactive to October 1, 2011.
2. On March 14, 2012, the Department sent a Notice of Case Action to Claimant, stating the application was denied.
3. On April 2, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age forty-seven [REDACTED] has an eleventh-grade education.

5. Claimant last worked in 2007 as a program assistant at a homeless shelter. She monitored client behavior at the shelter, entered information on client charts, administered medications to clients, and set up life-skill groups. Claimant also performed relevant work as a machinist processing linen material. Claimant's relevant work history consists exclusively of unskilled light-exertional work activities.
6. Claimant has a history of chronic severe low back pain, lumbar disc disease, disc bulges, arthritis, chronic severe left hip pain, and semimembranosus tendon tear. Her onset date is [REDACTED].
7. Claimant has not been hospitalized. Claimant is under the care of [REDACTED], as a result of her impairments. Her diagnoses are low back pain with radiculopathy, sciatica, osteoarthritis, stenosis, degenerative disc disease, left hip pain, and tendonitis.
8. Claimant currently suffers from low back pain with radiculopathy, sciatica, osteoarthritis, stenosis, degenerative disc disease, left hip pain and tendonitis.
9. Claimant has severe limitations of her ability to sit, stand, walk, bend, squat, twist and climb. 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 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):

1.04 Disorders of the spine

Disorders of the Spine (e.g. herniated nucleus pulposus, spinal arachnoiditis, **spinal stenosis, osteoarthritis, degenerative disc disease**, facet arthritis, vertebral fracture), resulting in **compromise of a nerve root** (including the cauda equina) or the spinal cord. With:

- A. Evidence of nerve root compression characterized by **neuro-anatomic distribution of pain, limitation of motion of the spine**, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine).

20 CFR 404 Sec. 1.04A (Bold print added for emphasis).

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. First, a

claimant must not be engaged in substantial gainful activity. In this case, as Claimant has not worked since 2007, it is found and determined that the first requirement of eligibility is fulfilled, and Claimant is not engaged in substantial gainful activity.

Second, in order to be eligible for MA, a claimant's impairment must be sufficiently serious and be of at least one year in duration. In this case, Claimant's onset date is [REDACTED]. An MRI was taken [REDACTED], documenting mild foraminal stenosis at L3-L4 and L4-L5 bilaterally. The MRI radiologist reports also that the same condition appeared on Claimant's earlier MRI of [REDACTED]. Accordingly, it is found and determined that Claimant's impairment is of sufficient severity and duration to fulfill the second eligibility requirement.

Turning now to the third requirement for MA disability eligibility, the factfinder must determine if Claimant's impairment is listed as an impairment in the federal Listing of Impairments, found at 20 CFR Chap. 3, 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 of Listing 1.04A, Disorders of the Spine, which is set forth above in pertinent part.

The first sentence of Listing 1.04A states that some examples of disorders of the spine are spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis and vertebral fracture. The medical records in this case indicate that Claimant has three of these five types of spinal disorders. Claimant's medical records indicate that she has spinal stenosis, osteoarthritis and degenerative disc disease. Department Exhibit 1, pp. 10, 15.

However, without fulfilling further features, it is not enough simply to have these conditions. The second part of the first sentence indicates that there also must be compromise of a nerve root.

Compromise of a nerve root is documented in Claimant's MRI, where it states that she has "persistent left foraminal and lateral disc protrusion causing mild impingement of the extraforaminal left L4 spinal nerve." *Id.*, p. 15. This meets the requirement of the second part of the Listing, sentence 1.

Sentence 1 of the Listing continues further to state the third part of the requirement of the impairment. The third requirement of the impairment is also necessary in order to be eligible for disability based on medical impairment alone. This is that there must be five additional features present:

1. Neuro-anatomical distribution of pain.
2. Limitation of motion of the spine.
3. Motor loss.
4. Positive straight-leg raising test in a supine position.

5. Positive straight-leg raising test in a sitting position.

Listing of Impairment 1.04A, Disorders of the spine.

In this case, the medical records indicate back pain radiating to the leg, which meets the first required feature. Second and third, Claimant has limited motion in her back with difficulty bending, squatting, climbing, standing, sitting, walking, twisting and stooping. Department Exhibit 1, pp. 12-14.

Next, the fourth and fifth features which must be present are positive results of straight-leg raising tests in two different positions, supine and sitting. Claimant's medical records reflect that Claimant had a positive result on the left leg straight-raising test. Although it is not known whether the test was performed while Claimant was in a sitting or supine position, the result was reproduced by the Department's examining physician as well on at least one type of straight-leg raising test. Department Exhibit 1, "Neurologic and Orthopedic Supplemental Report," p. 2, and numbered p. 11.

It is, therefore, found and determined that Claimant's medical impairment meets, or is equivalent to, the requirements of Listing of Impairment 1.04A, Disorders of the spine. Claimant, therefore, has established that she is eligible for Medicaid based on her medical impairment. As Claimant is found by the undersigned to be eligible for MA based solely on her medical impairment, it is not necessary to proceed further to examine whether Claimant meets any other eligibility requirements.

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**

Considering next whether Claimant is 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 Item 261. Inasmuch as Claimant has been found disabled for purposes of MA, 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

DOES NOT MEET MEETS

the definition of medically disabled under the Medical Assistance and State Disability programs as of the onset date of [REDACTED].

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 January 3, 2012, application to determine if all nonmedical eligibility criteria for MA, MA-retroactive and SDA 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, MA retroactive and SDA 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 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 6, 2012

Date Mailed: June 6, 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:

