

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-51673
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: July 16, 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 July 16, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant and her mother, [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) and State Disability Assistance (SDA) programs?

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 March 22, 2012, Claimant filed an application for MA and SDA benefits. The application also requested MA retroactive to December 1, 2011.
2. On April 25, 2012, the Department sent a Notice of Case Action to Claimant, denying the application.
3. On May 4, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age twenty-one [REDACTED] has currently enrolled in high school.
5. Claimant has never worked.

6. Claimant has a history of chronic obstructive pulmonary disease (COPD) and Baker's cyst of the knee. Her onset dates are [REDACTED].
7. Claimant was hospitalized [REDACTED] as a result of COPD. On each occasion, she was discharged in stable condition and instructed to follow up with [REDACTED].
8. Claimant currently suffers from COPD and Baker's cyst.
9. Claimant has severe limitations of her ability to sit, stand and walk. 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): _____.

OR

2. Claimant is not capable of performing other work.

The following is an examination of Claimant's eligibility 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 federal Medicare eligibility test in evaluating applicants for Michigan's Medicaid disability program.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has never worked in her lifetime. 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. 7.

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 is [REDACTED], when she was first seen in the Emergency Department for chest pain. Since that date, she was seen three more times in the Emergency Department, and she was hospitalized three times for chest pain, totaling seven treatment occasions. After all three hospitalizations, she was instructed to follow up with the internal medicine specialist who treated her in the hospital. More than one year has passed since the [REDACTED] onset date.

Based on this information of record, 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 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 does not meet the definition of a specific listed impairment in the federal Listing of Impairments. In reviewing this case, the listings for musculoskeletal (1.00 *et seq.*) and

cardiovascular (4.00 *et seq.*) impairments were considered and rejected, for the reason that Claimant's impairments are not as severe as the impairments in the federal listings.

As Claimant is not found eligible for MA based solely on a physical or mental impairment, it is necessary to proceed further to the last two eligibility requirements of the five-step Medicare eligibility sequence.

It shall now be considered whether Claimant can perform prior relevant work (Step 4), and, if not, whether Claimant can perform other work that is available in significant numbers in the national economy (Step 5).

Based on all of the above information of record and all of the testimony considered as a whole, it is found and determined that Claimant does not have a history of prior relevant work. Because of this fact, Claimant is incapable of returning to prior relevant work as defined by the Medicaid eligibility standards. The fourth step of the MA eligibility test has been completed, and it must now be determined if there is other work available in significant numbers in the national economy which Claimant can perform (Step 5).

If now, at the fifth step, Claimant is found capable of performing other work that is available in significant numbers in the national economy, MA must be denied. The Department has the responsibility, or burden of proof, to establish that such other work exists. The Department presented no evidence in this case to substantiate its assertion that Claimant is capable of performing other work and also presented no evidence to show that any such work is readily available in significant numbers in the national economy. As the Department failed to do fulfill its duty to come forward with evidence on this point, there is no duty on Claimant to produce evidence to disprove the point. Therefore, it is found and determined that there is no other work that is available in significant numbers in the national economy which Claimant can perform.

Having applied the five-step analysis to Claimant's application, it is found and determined that Claimant meets the eligibility requirements of the Medical Assistance program, by virtue of the fact that there is no other work that is available in significant numbers in the national economy and which Claimant can perform.

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 Assistance programs as of the onset date of June 10, 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 March 22, 2011, application, to determine if all nonmedical eligibility criteria for MA, retroactive MA 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, retroactive MA 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 August 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: July 18, 2012

Date Mailed: July 18, 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:

