

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-58533
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: September 19, 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 September 19, 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) 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 requested MA and SDA retroactive to December 1, 2011.
2. On June 4, 2012, the Department sent a Notice of Case Action to Claimant, denying the application.
3. On June 11, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age fifty-two [REDACTED] has a sixth-grade education.

5. Claimant last worked in February 2012 as a tire mechanic. Claimant's relevant work history consists exclusively of unskilled medium and heavy exertional work activities.
6. Claimant has a history of severe diffuse coronary artery disease (CAD) and sciatica. His onset dates are [REDACTED] (sciatica) and [REDACTED] (CAD).
7. Claimant was hospitalized [REDACTED] as a result of CAD. His discharge diagnosis was post-quadruple coronary artery bypass graft, continuing heart medication, and followup medical care.
8. Claimant currently suffers from CAD and sciatica.
9. Claimant has severe limitations of his ability to stand, walk, bend and twist. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning his 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 that is available in significant numbers in the national economy.

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):

4.04 Ischemic heart disease –

with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following:

...

- C. Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC [medical consultant], preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence showing:
 - a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or
 - b. 70 percent or more narrowing of another nonbypassed coronary artery; or
 - c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or
 - d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or
 - e. 70 percent or more narrowing of a bypass graft vessel; and
2. Resulting in very serious limitation in the ability to independently initiate, sustain, or complete activities of daily living. Appendix 1 of Subpart P of 20 CFR, Part 404, Part A, Section 4.04C.

OR

2. Claimant is not capable of performing other work that is available in significant numbers in the national economy.

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 federal Social Security Administration's five-step eligibility test in evaluating applicants for Michigan's Medicaid disability program.

First, the Claimant must not be engaged in substantial gainful activity for at least one year. In this case, Claimant has not worked since February 2012. He continues under a doctor's care for his heart condition, and takes Plavix and Cardizem, which are heart medications. He testified he currently experiences shortness of breath.

Claimant was continuously employed at [REDACTED] from [REDACTED], and testified that because of shortness of breath and sciatica, he cannot stand, walk, and perform the activities of a tire mechanic at the present time. Since the surgery in [REDACTED], he cannot walk more than half a block. Accordingly, 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, 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 he experienced shortness of breath while on a hunting trip. He testified he continues to experience shortness of breath, notwithstanding his successful quadruple bypass surgery in [REDACTED]. He is still under a doctor's care and takes heart medications.

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 meets the definition in Listing 4.04C, Coronary artery disease. This Listing is set forth above in full.

The first requirement of this Listing is that Claimant demonstrate symptoms of myocardial ischemia as described in Listing 4.00E3-E7. Claimant testified to shortness of breath, which is a symptom identified in Listing 4.00E5, thus fulfilling the first requirement of Listing 4.04C.

The second requirement of this Listing is that Claimant must be involved in a regimen of prescribed treatment. Claimant testified he sees [REDACTED] cardiology, every month to check his blood pressure and receive prescription medication renewals.

He testified he saw [REDACTED], but cannot afford to continue treating with him. He testified that when he consults with [REDACTED] "pushes the medications."

Third, there must be medically acceptable imaging. In this case, Claimant had cardiac catheterization which showed multivessel coronary artery disease. Claimant's laboratory report shows there may be myocardial injury or damage. A CT angiography was performed, which demonstrated multivessel significant coronary artery disease involving the left and right arteries. Claimant had a myocardial stress and rest SPECT imaging test, which was "suspicious for stress-induced myocardial ischemia." Based on this evidence of record, it is found and determined that Claimant has presented acceptable medical imaging documenting his impairment.

Fourth, there must be evidence that a stress test was considered, and if there was no stress test, that a medical consultant determined that it was too risky. In this case, Claimant had a stress test, which was normal. Upon further examination, Claimant was immediately scheduled for surgery. It is found and determined that a stress test was administered to Claimant during the course of diagnosis and treatment.

Fifth, there must be angiographic evidence showing one of five types of narrowing of a coronary artery. The record in this case demonstrates that Claimant had the first of the five types of narrowing, i.e., 50% or more narrowing of a nonbypassed left main coronary artery. On [REDACTED], Claimant underwent the following surgical procedures: quadruple coronary artery bypass graft, left leg vein harvesting, chest tube insertion, and temporary epicardial pacemaker lead placements in two places. Medical records indicate blockages up to 90% in Claimant's coronary arteries, necessitating immediate surgery. Thus, it is found and determined that Claimant meets this fifth requirement or its equivalent.

Sixth and last, Claimant must present sufficient evidence to establish that he has a very serious limitation in his ability to initiate, sustain or complete activities of daily living on an independent basis.

Claimant testified that he continues to have shortness of breath and cannot stand for more than an hour. This is also due to sciatica, which has flared up since the surgery and which causes pain in both legs. He uses a crutch to get out of bed. He is also experiencing low back pain, involving a knife-like pain which shoots down his leg. Claimant stated in a Department questionnaire that he cannot lift more than 2 lbs. at a time.

Claimant testified he was having difficulty working before his surgery, and he can no longer perform the job of a tire mechanic. In response to Department questionnaires, Claimant stated that pain makes it difficult to sleep, and that he needs help getting around. His mother helps him with shopping, and he has essentially no activities other than reading hotrod magazines. His food intake consists of oatmeal and peanut butter

and jelly sandwiches. The Department Specialist observed that Claimant had difficulty walking, sitting and breathing, and that he showed signs of fatigue and distress.

Based on all of the evidence of record taken as a whole, it is found and determined that Claimant has presented sufficient evidence to establish that he has a very serious limitation in his ability to initiate, sustain or complete activities of daily living on an independent basis.

In conclusion, based on the Findings of Fact and Conclusions of Law above, 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 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 [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 March 22, 2012, application, to determine if all nonmedical eligibility criteria for 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 and SDA benefits to Claimant, including any supplements for retroactive 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 October 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: September 25, 2012

Date Mailed: September 26, 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.

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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:

