

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 2012-12079  
Issue No: 2009

[REDACTED]

**ADMINISTRATIVE LAW JUDGE:** [REDACTED]

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on [REDACTED]. The claimant was represented by [REDACTED]. The claimant appeared and provided testimony along with [REDACTED] a friend. The department witness was [REDACTED].

**ISSUE**

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA) application?

**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 [REDACTED] claimant applied for MA with the Michigan Department of Human Services (DHS).
2. Claimant applied for retro MA.
3. On [REDACTED] the MRT denied.
4. On [REDACTED] DHS issued notice.
5. On [REDACTED], claimant filed a hearing request.
6. Claimant testified at the administrative hearing that he has an SSI application pending with the Social Security Administration (SSA).

7. On [REDACTED], the State Hearing Review Team (SHRT) denied claimant. Pursuant to the claimant's request to hold the record open for the submission of new and additional medical documentation, on [REDACTED] [REDACTED] once again denied claimant.
8. As of the date of hearing, claimant was a [REDACTED] standing 6'0" tall and weighing 323 pounds. Claimant has a high school education and two years of college.
9. Claimant testified that he smokes approximately a ½ pack of cigarettes per day, does not drink alcohol or use illegal drugs.
10. Claimant has a driver's license and testified that he is able to drive at times, but is sometimes limited from his back problems and his legs and feet going numb.
11. Claimant is not currently working. Claimant last worked in [REDACTED] for a [REDACTED] [REDACTED] [REDACTED].
12. Claimant alleges disability on the basis of a history of [REDACTED] [REDACTED] coronary artery disease, depression, anxiety and kidney stones.
13. The claimant was admitted into the hospital on [REDACTED] for chest pain and discomfort. Claimant was found to have had an acute myocardial infarction. The claimant underwent a left ventriculogram, aortogram, left heart catheterization, balloon angioplasty to the right coronary artery, and promus stent placement to the right coronary artery. The claimant was discharged on [REDACTED].
14. An [REDACTED] echocardiogram found the claimant's left ventricular systolic function was normal with a visually estimated ejection fraction of 55%. The left ventricular wall motion was normal. There was mild concentric left ventricular hypertrophy. The left atrium was mildly dilated. There was trace mitral regurgitation and trace tricuspid regurgitation.
15. On [REDACTED] the claimant was referred for an independent medical evaluation. The claimant reported that he had an MRI performed a few years ago and was informed he had degenerative disk disease. The claimant also reported a history of coronary artery disease. He reported that in [REDACTED] he had two stents placed at that time. He denied any chest pain at the present time. The claimant's blood pressure was 116/78. The claimant's heart had a regular rate and rhythm without enlargement. There was a normal S1 and S2. Examination of the vascular system showed no clubbing or cyanosis was detected. There

was 1+ edema appreciated. The bilateral peripheral pulses were all decreased. Hair was present and feet were warm with normal color. Examination of the musculoskeletal system showed no evidence of joint laxity, crepitation or effusion. Grip strength remained intact and dexterity was unimpaired. The client could pick up a coin and open a door. The client had no difficulty getting on and off the examination table, moderate difficulty heel and toe walking, moderate difficulty squatting and was unable to hop. He was holding onto the wall and table with maneuvers. There was diffuse tenderness in the lower lumbar spine. Straight leg raising was negative. The claimant's motor strength and tone were normal. Sensory was intact to light touch and pin prick. There was hyporeflexia in both knees and both ankles. Romberg testing was negative. The client walked with a wide based gait without the use of an assistive device. The clinician noted that he did not find any active radicular symptoms. A review of a prior MRI did show a large right disk extrusion interfering with the right lateral recess and possible left L3 radiculopathy, but there were no reproducible radicular symptoms. Weight reduction and conservative management were recommended. The claimant was found to have restrictive pulmonary disease and some mild lower extremity edema. His blood pressure was normal and he denied any chest pain. Once again, risk factor modification was recommended. The clinician opined that client's overall degree of impairment appeared mild to moderate, but potentially remediable with appropriate management.

16. On [REDACTED] the claimant was seen for an independent psychological examination. The client denied that he was in any current treatment for mental health issues. The client indicated no particular social difficulties. He reported that he has ample support in his endeavors going back to school. The client was cooperative and he did not evidence any overt hostility. His insight appeared to be rather limited. He was alert and responsive to the conversation. He stayed on topic and followed the interview questions. He tended to remain quite superficial throughout the interview, with regards to symptoms and problems. His reasoning skills appeared to be adequate and his cognitive ability appeared to be average. He appeared to be chiefly anxious showing physical symptoms of anxiety. He did describe some symptoms of depression. There was some evidence of grandiose thinking. Psychotic thinking was not apparent. The client did evidence a lackluster affect. The claimant was diagnosed with an anxiety disorder NOS, rule out post traumatic stress disorder and assigned a Global Assessment of Functioning (GAF) of 58. The client was found to be able to follow simple directions. His prognosis appeared to be fair to guarded. It also appeared that he has been reluctant to engage in treatment; although the reasons for the reluctance are unknown.

17. On [REDACTED] the claimant reported to the emergency room for back pain and dizziness. At admission, his blood pressure was elevated to 157/102. He did have normal range of motion. His motor strength and sensation were intact and his gait was normal. A chest x-ray was normal. His mental status examination was within normal limits. He was treated with improvement and released in stable condition.

### **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). The Department of Human Services (DHS or department) 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 Bridges Reference Manual (RFT).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
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 416.909(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 that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(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. Sections 200.00-204.00(f)?
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? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.),

roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity. 20 CFR 404.1520(e) and 416.920(e). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered. 20 CFR 404.1520(e),

404.1545, 416.920(e), and 416.945; SSR 96-8. In considering all the evidence presented, the great weight of the evidence shows that the claimant would be capable of simple and unskilled, light work. While the claimant indicates that he has a severe mental impairment in depression and anxiety, the claimant has failed to pursue any treatment, such as counseling for these mental impairments. Further, the claimant was found to be able to follow simple instructions and was not found to be impaired in his social functioning. There is no evidence that the claimant is restricted in his activities of daily living or has severe restrictions in his concentration, persistence or pace or his ability to tolerate increased mental demands that would be associated with competitive work. While the claimant does have a history of a [REDACTED], there does not appear to be residual, physical symptoms that linger from this. The claimant's blood pressure appears to be mostly under control through medication at this time. The claimant's coronary artery disease appears to be the most limiting condition that affects the claimant. However, the claimant has had stent placement and his only ejection fraction analysis was 55%. There is no physical residual functional capacity assessment to show that the client would not be capable of handling physical exertion of a light nature.

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f) and 416.920(f). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA. 20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965. If the claimant has the residual functional capacity to do his/her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

In this case, this ALJ finds that claimant's employment history is mostly part time and temporary in nature, not lasting more than 90 days. Therefore, the analysis will continue to step 5.

At the last step of the sequential evaluation process, the Administrative Law Judge must determine whether the claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. 20 CFR 404.1520(g) and 416.920(g).

Claimant has submitted insufficient objective medical evidence that he lacked the residual functional capacity to perform at least light work if demanded of him. Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant had no residual functional capacity to perform other work. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he could not perform at least light work. Under the Medical-Vocational guidelines, a younger individual, with a high

school education or more and an unskilled or no work history who can perform at least light work is not considered disabled pursuant to Medical-Vocational Rule 202.20.

The 6<sup>th</sup> Circuit has held that subjective complaints are inadequate to establish disability when the objective evidence fails to establish the existence of severity of the alleged pain. *McCormick v Secretary of Health and Human Services*, 861 F2d 998, 1003 (6<sup>th</sup> cir 1988).

As noted above, claimant has the burden of proof pursuant to 20 CFR 416.912(c). Federal and state law is quite specific with regards to the type of evidence sufficient to show statutory disability. 20 CFR 416.913. This authority requires sufficient medical evidence to substantiate and corroborate statutory disability as it is defined under federal and state law. 20 CFR 416.913(b), .913(d), and .913(e); BEM 260. These medical findings must be corroborated by medical tests, labs, and other corroborating medical evidence that substantiates disability. 20 CFR 416.927, .928. Moreover, complaints and symptoms of pain must be corroborated pursuant to 20 CFR 416.929(a), .929(c)(4), and .945(e). Claimant's medical evidence in this case, taken as a whole, simply does not rise to statutory disability by meeting these federal and state requirements. 20 CFR 416.920; BEM 260, 261.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is **UPHELD**.

/s/ \_\_\_\_\_  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: \_\_\_\_\_

Date Mailed: \_\_\_\_\_

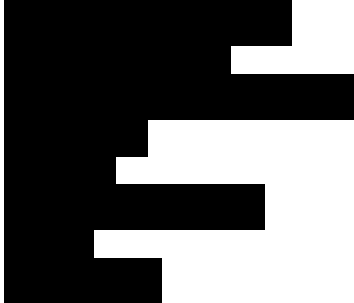
**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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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 mailing date of the rehearing decision.

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