

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-18217
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 5, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

AMENDED 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 hearing was held on April 5, 2012, in Madison Heights, Michigan. Participants on behalf of Claimant included Claimant, Claimant's wife, [REDACTED], Claimant's Authorized Hearing Representative, [REDACTED], as well as [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

The original decision remains in full force except for where this Amended Hearing Decision conflicts with the previously issued decision. The only change made is in the on page 4 in the DECISION AND ORDER section; namely, the onset date is August 1, 2011.

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) program?

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 August 26, 2011, Claimant filed an application for Medicaid benefits. The application also requested MA-P retroactive to May 1, 2011.

2. On November 4, 2011, a Notice of Case Action was sent to Claimant advising Claimant that the application for benefits was denied.
3. On December 1, 2011, Claimant filed a hearing request appealing the Department's denial to the Michigan Administrative Hearing System.
4. Claimant, age thirty-nine [REDACTED] has a twelfth-grade education.
5. Claimant last worked in 2007 as a machinist. Claimant also performed relevant work as a house painter. Claimant's relevant work history consists exclusively of unskilled, medium and heavy exertional work activities.
6. Claimant has a history of seizures, back problems, high blood pressure and thyroid problems.
7. Claimant was hospitalized [REDACTED], as a result of an acute left temporal epidural hematoma and skull fractures after a fall outside a doctor's office. He had epidural hematoma evacuation surgery (left cranial craniotomy) with a plate placement, and was discharged after six days. He was hospitalized a second time from [REDACTED], after a second fall occurred. He also visited the Emergency Department on [REDACTED], after another fall.
8. Claimant currently suffers from seizures, back problems, high blood pressure and thyroid problems.
9. Claimant has severe limitations to his ability to focus, he has memory loss, and he has sudden outbursts of anger. His family doctor, [REDACTED], has restricted his driving activity completely. 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 the medical evidence, and the record as a whole, 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 that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's physical and/or mental impairments meet a Federal SSI Listing of Impairment(s) or its equivalent.

State the Impairment Listing No.:

12.02 Organic Mental Disorders, including

A. Memory Impairment and

B. Resulting in all four of the following:

1. Marked restriction of activities of daily living,
2. Marked difficulties in maintaining social functioning,
3. Marked difficulties in maintaining concentration, persistence and pace, and
4. Repeated episodes of decompensation, each of extended duration.

2. Claimant is not capable of performing previous relevant work.

3. Claimant is not capable of performing other work.

Additionally, medical records in evidence in this case demonstrate that Claimant has been hospitalized twice for loss of consciousness and received emergency care on a third occasion. Claimant's testimony supports the diagnosis of a brain injury, in that he stays in his room watching television all day, and has sudden outbursts of anger and frequent seizures. Claimant's wife gave credible and un rebutted testimony that Claimant has exhibited behavioral changes since the hematoma in August including loss of memory.

In conclusion, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be

DISABLED **NOT DISABLED**

for purposes of the MA program. The Department's denial of MA benefits to Claimant is

AFFIRMED **REVERSED**

While Claimant has not applied for SDA, he may be eligible for this program as well. In order to become eligible, 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, he must also be found disabled for purposes of SDA benefits, if he should choose to apply for them.

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

meets **does not meet**

the definition of medically disabled under the Medical Assistance program as of the onset date of August 1, 2011.

Accordingly the Department's decision is AFFIRMED.

Accordingly the Department's decision is 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 application to determine if all nonmedical eligibility criteria for MA and retroactive MA 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 MA retroactive benefits to Claimant, including 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, a redetermination date for review of Claimant's continued eligibility for program benefits shall be no earlier than May 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: April 16, 2012

Date Mailed: April 16, 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:

