

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-21545  
Issue Nos.: 2009  
Case No.: [REDACTED]  
Hearing Date: March 26, 2012  
County: Macomb (50-12)

**ADMINISTRATIVE LAW JUDGE:** Robert J. Chavez

**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, a hearing was held on March 26, 2012, by teleconference from Detroit, Michigan. Claimant was represented by [REDACTED].

**ISSUE**

Was the Department of Human Services' (Department) denial of claimant's application for Medical Assistance (MA-P) and retroactive MA-P benefits for lack of disability correct?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for MA-P and retroactive MA-P on February 7, 2011.
2. Claimant is 55 years old.
3. Claimant has a 12<sup>th</sup> grade education.
4. Claimant is not currently working.
5. Claimant has a work history consisting of deli work and waitressing.
6. Both jobs required frequent exertional effort and quick movement to service customers, which required decent exertional breathing effort.

7. Claimant has a history of COPD.
8. Pulmonary functioning tests measured an FEV<sub>1</sub> at 1.33L.
9. Reduced FEV<sub>1</sub> was felt by treating sources to be indicative of moderate obstruction, with no improvement after administration of bronchodilators.
10. On June 7, 2011, the Medical Review Team denied MA-P and retroactive MA-P, stating that claimant was capable of past work.
11. On June 7, 2011, claimant was sent a notice of case action.
12. On June 22, 2011, claimant filed for hearing.
13. On February 2, 2012, the State Hearing Review Team (SHRT) denied MA-P, and retroactive MA-P, stating that claimant was capable of past work.
14. This SHRT decision also found claimant capable of light work.
15. On March 26, 2012, a hearing was held before the Administrative Law Judge.
16. At the hearing, claimant stipulated to the findings of the SHRT decision, with the exception of SHRT's findings at step 4 of the disability process.

### **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 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 (BRM).

Federal regulations require that the Department use the same operative definition of the term "disabled" as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

Disability is defined as the inability to do any substantial gainful activity (SGA) 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.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order

according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

Claimant stipulated to the Department's findings in their SHRT decision, which found claimant capable of light work, except for SHRT's findings that claimant was capable of past work. The undersigned will, therefore, evaluate for past work factors.

Claimant has a past work history as a deli worker and a waitress. These jobs, as described and performed by claimant, required lifting of at least 10-15 pounds, extended periods of standing, and frequent amounts of time hurrying and running to service customers.

Claimant's impairment, which has been supported by the medical record, would prevent claimant from moving at the speeds required in a customer service environment.

Claimant has COPD, and has a documented reduced air capacity, consistent with moderate obstruction. Claimant testified credibly to shortness of breath, especially on frequent exertion.

Claimant's past relevant work required frequent exertion, and therefore, claimant is incapable of performing her past relevant work.

Therefore, using a combination of claimant's age, education level (which does not provide for direct entry into skilled work), and no previous work experience, a finding of disability is directed. 20 CFR 404, Subpart P, Appendix 2, Rule 202.04. Claimant is disabled with an onset date of January 10, 2011. Therefore, the Department erred when it denied claimant's Medicaid application for lack of disability.

As stated above, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone. As we are able to make a determination based solely on exertional limitations, an examination of claimant's nonexertional limitations, such as pain, though quite relevant to claimant's overall health, is not required and will not be made here.

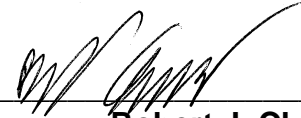
### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is disabled for the purposes of the MA program as of January 10, 2011. Therefore, the decision to deny claimant's application for MA-P and retroactive MA-P was incorrect.

Accordingly, the Department's decision in the above-stated matter is, hereby, REVERSED.

The Department is ORDERED to:

1. Process claimant's MA-P and retroactive MA-P application of February 7, 2011, and award all benefits that claimant is entitled to receive under the appropriate regulations;
2. Conduct a review of this case in April 2013.



---

**Robert J. Chavez**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 7, 2012

Date Mailed: May 8, 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.

2012-21545/RJC

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

RJC/pf

cc:

