

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-24074
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: March 12, 2012
County: Macomb (50-20)

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 March 12, 2012, from Detroit, Michigan. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED]

ISSUE

Did the Department properly determine that Claimant is not disabled for purposes of the Medical Assistance (MA-P) 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 fact:

1. On November 8, 2011, Claimant submitted an application for MA benefits. The application requested MA-P retroactive to August 1, 2011.
2. On December 13, 2011, the Department denied Claimant's application based on a finding that Claimant did not meet the requisite disability criteria.
3. On December 27, 2011, Claimant filed a hearing request to protest the Department's determination.
4. Claimant, age fifty-two [REDACTED] has a twelfth-grade education.

5. Claimant last worked in 2008 installing chimney liners. Claimant also performed relevant work as a brick layer and concrete block layer. Claimant's relevant work history consists exclusively of heavy unskilled work activities.
6. Claimant has a history of coronary artery disease, ischemic cardiomyopathy with chronic chest pain, and chronic tachycardia. He also has high blood pressure and diabetes, one kidney, and he has no sternum.
7. Claimant had five heart attacks. He was hospitalized for eight cardiac surgeries beginning in [REDACTED], when he was thirty-five years old, as a result of his condition. The most recent surgery was in [REDACTED].
8. Claimant currently suffers from coronary artery disease, ischemic cardiomyopathy with chronic chest pain, and chronic tachycardia, high blood pressure and diabetes.
9. Claimant has severe limitations on his ability to perform any type of physical work, including lifting and carrying more than two lbs. He also needs to lie down frequently. 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 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).

1. Is Claimant engaged in substantial gainful activity? NO.

If the answer to Question 1 is YES, Claimant is *not* disabled and may *not* receive MA benefits.

If the answer is NO, go to Question 2.

2. Do Claimant's impairments meet the severity and one-year durational requirements? YES.

If the answer to Question 2 is NO, Claimant is *not* disabled and may *not* receive MA benefits.

If the answer to Question 2 is YES, go to Question 3.

3. **Does Claimant's impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent? YES.**

If the answer to Question 3 is NO, go to Question 4.

If the answer to Question 3 is YES, state the Impairment Listing No(s): **4.04** Ischemic heart disease.

It is found and determined in this case that Claimant **IS DISABLED** at Step 3 and has established MA disability.

Stop here, and do not answer Questions 4 and 5.

4. **Is Claimant capable of performing previous relevant work? NOT APPLICABLE.**
5. **Is Claimant capable of performing other available work? NOT APPLICABLE.**

In addition to his five heart attacks and eight surgeries, it is found and determined that Claimant needs help with activities of daily living such as getting dressed, preparing food and getting his medications. He cannot perform housework chores or go shopping. He can no longer engage in his previous hobbies and activities, which were bowling, hunting and woodworking.

Accordingly, this Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program. The Department's denial of MA benefits to Claimant is **REVERSED**.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides and concludes that Claimant meets the definition of medically disabled under the Medical Assistance program as of May, 2010.

The Department is **REVERSED**, and is ordered to:

1. Initiate a review of Claimant's November 8, 2011, application, if it has not already done so, to determine if all nonmedical eligibility criteria for MA and MA-retroactive benefits have been met.

2. Initiate procedures to inform Claimant of its determination in writing, and provide MA-P and MA-P retroactive benefits to Claimant at the benefit levels to which he is entitled;
3. Initiate procedures to inform Claimant of his responsibility to apply for Supplemental Security Income (SSI) benefits with the U.S. Social Administration if he has not already done so;
4. Assuming that Claimant is eligible for program benefits, initiate procedures to review Claimant's continued eligibility for program benefits in April 2013.
5. 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: March 13, 2012

Date Mailed: March 13, 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:

