

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-24495  
Issue Nos.: 2009, 4031  
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) 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 fact:

1. On October 31, 2011, Claimant filed an application for MA and SDA benefits. The application requested MA-P retroactive to July 1, 2011.
2. On December 15, 2011, the Department denied Claimant's application for benefits based on a finding that Claimant did not meet the requisite disability criteria.
3. On January 3, 2011, Claimant filed a hearing request to protest the Department's determination.
4. Claimant, age thirty-seven ([REDACTED]), has an eleventh-grade education.

5. Claimant last worked as a waitress. Claimant also performed relevant work as a restaurant manager. Claimant's relevant work history consists exclusively of light semi-skilled work activities.
6. Claimant has a history of congestive heart failure, hypertension, Hepatitis C, ascites, depression and polysubstance abuse.
7. Claimant worked from February-July, 2011 as a waitress.
8. Claimant earned less than \$1,010 per month in the past year while engaged in substantial gainful activity as a waitress.
9. Claimant was hospitalized in [REDACTED] for seven days as a result of cellulitis.
10. Claimant currently suffers from chronic liver disease with ascites and Hepatitis C, not attributable to other causes despite continuing treatment as prescribed, present in at least two evaluations at least 60 days apart within a consecutive six-month period. Her onset date is on or about July 1, 2011, when she was first diagnosed with Hepatitis C.
11. Claimant has severe limitations upon her ability to walk, bend, lift, carry, reach and push and pull. Claimant's limitations have lasted or are expected to last twelve months or more.
12. Claimant's complaints and allegations concerning her 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).

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.

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

If the answer is NO, go ahead to Question 2.

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

2. **Does Claimant's impairment(s) meet the severity and one-year durational requirements? YES.**

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

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

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): **5.05B** Chronic liver 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 the Claimant capable of performing previous relevant work? NOT APPLICABLE.**
5. **Is the Claimant capable of performing other available work? NOT APPLICABLE.**

Additionally, Claimant was diagnosed with Hepatitis C and chronic liver disease, including ascites, three times in a six-month period [REDACTED]. Claimant was told by her family physician and by [REDACTED], that she needs further treatment.

Claimant gave credible and un rebutted testimony regarding her impairments at the hearing. Claimant can walk less than one block. She cannot reach, lift, carry, bend and push/pull. Claimant has severely swollen legs (pedal edema), and has gained over 100 lbs. She cannot put her socks on, and no longer does work in the yard as she used to. She is deteriorating and becoming increasingly weaker. She has shortness of breath and wheezes constantly.

It is found and determined that Claimant's impairment meets the federal Listing of Impairment 5.05, chronic liver disease, or its equivalent. Appendix 1 of Subpart P of 20 CFR, Part 404, Part A, Listing of Impairments 5.05B; Department Exhibit 1, pp. 8-18.

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**.

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 Item 261. Inasmuch as Claimant has been found disabled for purposes of MA, she must also be found disabled for purposes of SDA benefits.

Claimant's onset date is July 1, 2011.

#### **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 MA and SDA programs as of April 1, 2011.

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

1. Initiate a review of Claimant's October 31, 2011, application, if it has not already done so, to determine if all nonmedical eligibility criteria for MA, MA-retroactive and SDA benefits have been met;
2. Initiate procedures to inform Claimant of its determination in writing, and provide MA-P, MA-P retroactive, and SDA benefits to Claimant at the benefit levels to which she is entitled;
3. Assuming that Claimant is eligible for program benefits, initiate procedures to review Claimant's continued eligibility for program benefits in April 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: 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.

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:

