

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

IN THE MATTER OF:



Reg. No.: 2012-27220
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: June 25, 2012
County: Sanilac

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

AMENDED 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 June 25, 2012, from Sandusky, MI. Claimant appeared and testified. Claimant was represented at hearing by [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED].

The original decision remains in full force except for where this decision conflicts with the previously issued decision. The final decision and order shall reflect this change. The only change made is in the DECISION AND ORDER section on page 3; namely, the addition of a paragraph ordering a review of the case in July 2013.

ISSUE

Whether the Department properly determined 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 upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On October 26, 2011, claimant applied for MA-P, SDA and retro MA-P.
2. On November 28, 2011, the Medical Review Team denied claimant's request.
3. On January 27, 2012, claimant submitted to the Department a request for hearing.

4. The State Hearing Review Team (SHRT) denied claimant's request.
5. Claimant is 61 years old.
6. Claimant completed education through the fifth grade.
7. The SHRT found claimant capable of medium work.

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (Department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and BRM.

The Administrative Law Judge adopts the SHRT decision in its entirety. However, SHRT misapplied the rules in question. Claimant has a 5th grade education. Claimant was found by SHRT to have a "limited education" and, therefore, applied rule 203.03. However, a marginal education is defined by law as a 6th grade education or less. SSR 82-63.

Therefore, as claimant has a marginal education, claimant should have been evaluated under rule 203.01, which would direct a finding of disabled.

The Administrative Law Judge, therefore, holds that claimant is disabled for the purposes of the MA-P program.

As claimant meets the requirements for the MA-P program, claimant meets the disability requirements for the SDA program as well.

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-P and SDA programs, with an onset date of at least July 2011.

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

The Department is ORDERED to initiate processing of claimant's October 26, 2011, MA-P and SDA application and award any benefits to which claimant is otherwise entitled, provided claimant meets all other eligibility factors.

The Department is FURTHER ORDERED to institute a review of this case in July 2013.



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

Date Signed: July 18, 2012

Date Mailed: July 18, 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

RJC/pf

cc:

