

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-27324
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: March 19, 2012
County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 19, 2012, from Detroit, Michigan. Claimant appeared and participated at the hearing. [REDACTED], appeared and testified on behalf of the Department of Human Services (Department).

ISSUE

Did the Department correctly 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 material fact:

1. On December 9, 2011, Claimant filed an application for MA-P benefits. The application also requested MA-P retroactive to September 1, 2011.
2. On January 17, 2012, a Notice of Case Action was sent to Claimant advising her that the application for benefits was denied.
3. On January 23, 2012, Claimant filed a hearing request appealing the Department's denial to the Michigan Administrative Hearing System.
4. Claimant, age fifty-two [REDACTED] has a high-school education and two years of college.

5. Claimant last worked in 2009 as an machine operator and assembler. Claimant also performed relevant work as a floor supervisor in a factory. Claimant's relevant work history consists exclusively of unskilled medium work activities.
6. Claimant has a history of diabetes, hypertension, lower back pain, neck pain, anemia, and tenderness in the cervical and lumbar spine. Her impairments date from 2009.
7. Claimant has not been hospitalized for her impairments.
8. Claimant currently suffers from diabetes, hypertension, lower back pain, neck pain, anemia and tenderness in the cervical and lumbar spine.
9. Claimant has severe limitations upon her ability to sit, stand, walk, lift and carry. Claimant's limitations have lasted or are expected to last twelve months or more.
10. 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).

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 impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

State the Impairment Listing No(s): **N/A**

2. Claimant is not capable of performing other work.

YES **NO**

Additionally, Claimant gave credible and un rebutted testimony that she cannot sit or stand for longer than 30 minutes, she cannot walk more than 5-6 blocks, and she cannot lift and carry more than 10-15 lbs. If she exceeds these limitations, she experiences pain. She has not worked since 2009, and is currently receiving prescription medication treatment from [REDACTED].

██████████ diagnosed diabetes, hypertension, lower back pain, neck pain, and anemia, and prescribed Vicodin, Metformin, Simvastatin, Flexeril, Colace, and other medications. She last saw Claimant on ██████████.

Claimant gave credible and un rebutted testimony that, as a machine operator, she was required to lift and carry 20-30 lbs. continually for the entire work day. She cannot lift and carry this much weight, and she cannot stand and walk for this length of time.

Claimant was also employed as a dashboard assembler, but she can no longer do this work. This is because this work requires full-time standing while holding a 10-lb. drill in one hand and a 15-lb. part in the other, and drilling into a part on an overhead assembly line. Claimant cannot stand and lift sufficiently to meet the requirements of this job.

Claimant testified she knew of no job she could currently perform, as she needs a 30-40 minute break after sitting or standing for thirty minutes, and she knows of no job that would allow sufficient break time during the work day. The Department failed to present evidence to the contrary.

Further, 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.**

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 may also be eligible for SDA benefits should she elect 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 MA program as of the onset date of 1990.

Accordingly the Department's decision is

AFFIRMED. **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 MA-P application to determine whether all nonmedical eligibility criteria for MA-P and MA-P retroactive 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-P and MA-P retroactive benefits to Claimant, including supplements for lost benefits to which Claimant is entitled in accordance with Department 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 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: March 20, 2012

Date Mailed: March 20, 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:

