

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-34065
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 18, 2012
County: Wayne (82-82)

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 April 18, 2012 at Detroit, Michigan. Participants on behalf of Claimant were Claimant and her daughter, [REDACTED]. Participants on behalf of the Department of Human Services (Department) were [REDACTED].

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) 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 January 18, 2012, Claimant filed an application for Medicaid benefits. The application also requested MA retroactive to October 1, 2011.
2. On February 10, 2012, the Department sent a Notice of Case Action to Claimant, denying her application.
3. On February 14, 2012, Claimant filed a hearing request appealing the Department's denial.
4. Claimant, age fifty [REDACTED] has a tenth-grade education.

5. Claimant last worked in 2009 as an assembly line production worker. She worked on the assembly line from 1995-2009. Claimant's relevant work history consists exclusively of unskilled, medium and heavy exertional work activities.
6. Claimant has a history of aneurysm, transient ischemic attack (TIA), high blood pressure, anxiety, headaches, carpal tunnel syndrome and short-term memory loss. Claimant's onset date for her aneurysm is [REDACTED], when Claimant had an MRI exam showing the aneurysm.
7. Claimant was hospitalized [REDACTED], as a result of a stroke. The discharge diagnosis was for follow-up with her neurologist, [REDACTED], every three months and with her family doctor as well.
8. Claimant currently suffers from daily headaches, high blood pressure, carpal tunnel syndrome, short-term memory loss and anxiety.
9. Claimant has severe limitations of her ability to stand, sit, walk, lift and carry, bend, twist, and concentrate. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning these impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, 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.

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:

4.10 Aneurysm of aorta or major branches, due to any cause (e.g., atherosclerosis, cystic medial necrosis, Marfan syndrome, trauma), demonstrated by appropriate medically acceptable imaging, with dissection not controlled by prescribed treatment (see 4.00H6).

2. Claimant is not capable of performing other work.

The Administrative Law Judge concludes and determines that Claimant **IS NOT DISABLED** for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.

2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.

3. Claimant is capable of performing previous relevant work.

4. Claimant is capable of performing other work.

The rationale for this decision is based first on Claimant's credible and unrebutted testimony that she has not worked since 2009. Claimant's work history satisfies the first MA program requirement, which is that the claimant cannot be gainfully employed. Next, Claimant's testimony is that her aneurysm began many years ago and was diagnosed in [REDACTED], prior to her first TIA. This history is also reflected in the patient history in the [REDACTED] hospital records. This history satisfies the second MA program eligibility requirement that the Claimant's impairment must have lasted, or be expected to last, more than one year. 20 CFR 416.905; 20 CFR 416.921.

Looking next at the third MA program eligibility requirement, there must be a determination whether Claimant meets a federal medical listing of a physical or mental impairment. If so, then Claimant is eligible on a medical basis for MA benefits, and her work skills need not be considered in evaluating her eligibility for the MA program. 20 CFR, Part 404, Subpart P, Appendix 1: Listing of Impairments.

It is found and determined that Claimant meets the definition of impairment in Listing of Impairment No. 4.10, which is the listing for an aneurysm of the aorta or the major branches. In order to verify an aneurysm, there must be appropriate medical imaging. The records contain references to two such medical imaging reports.

On [REDACTED], prior to the first TIA, Claimant had magnetic resonance imaging (MRI), which indicated a 1.5 mm left supraclinoid internal carotid aneurysm or marginal infundibulum and potential M1 fenestration. On [REDACTED] Claimant

underwent an intracranial magnetic resonance angiograph (MRA). The MRA report states that Claimant has “partial redemonstration of previously questioned 1.5 mm left supraclinoid internal carotid aneurysm or marginal infundibulum and potential M1 fenestration.” Department Exhibit 1, p. 47. It is found and determined that these reports satisfy the requirement to establish the aneurysm by appropriate medical imaging reports.

In addition, Listing 4.10 requires that the aneurysm must be “with dissection not controlled by prescribed treatment (see 4.00H6).”

Turning to Listing 4.00H6, which is a section containing the MA definition of the phrase “dissection not controlled by prescribed treatment,” it states:

We consider the dissection not controlled when you have persistence of chest pain due to progression of the dissection, an increase in the size of the aneurysm, or **compression of one or more branches of the aorta supplying the heart, kidneys, brain, or other organs.** An aneurysm with dissection can cause heart failure, renal (kidney) failure, or neurological complications. Listing of Impairment 4.00H6. (Bold print added for emphasis.)

It is found and determined that Claimant’s MRA establishes that she has neurological complications that indicate that the dissection is not controlled. The MRA report states, “**Mild narrowing proximal left cavernous carotid artery again seen.**” Department Exhibit 1, p. 47 (emphasis added). The evidence of mild narrowing establishes that Claimant has compression of an aorta leading to the brain. Accordingly, it is found and determined that the medical evidence in this case establishes an aneurysm within the definition of Listing 4.10 and the definition accompanying it in Listing 4.00H6.

Looking next at whether the medical reports are consistent with Claimant’s testimony, it is found and determined that Claimant gave credible and unrebutted testimony that she has daily headaches which are of a severity of 5-8 on a scale of 1-10 and which require her to lie down in a quiet room. The headaches occur before and after she takes her medication.

Claimant is under the care of a neurologist, whom she sees every three months, as well as a family physician. At the hospital in [REDACTED], she was told that she had had her aneurysm for 4-5 years, although she was unaware of it. On [REDACTED], Claimant went to a follow-up visit and again reported headaches.

In addition, Claimant gave credible and unrebutted testimony that her daughter and her mother cook for her because she cannot cook. She cannot lift and carry because she has bilateral carpal tunnel syndrome, and, this also limits her ability to grasp and grip objects. She cannot shop for groceries by herself and uses the scooter cart at the grocery store because she cannot stand for long periods of time. She has trouble reading for long periods of time as well and experiences short-term memory loss.

Claimant's daughter testified that her mother is "a problem," because the head pain from the headaches causes her to be "distant from everyone."

In conclusion, 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.**

Additionally, Claimant may also be eligible for SDA benefits by virtue of this decision. In order to be eligible for 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, Claimant must also be found disabled for purposes of SDA benefits.

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 Medical Assistance program as of the onset date of March 15, 2010.

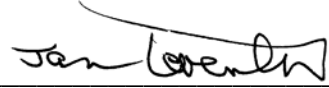
The Department's decision is **AFFIRMED.**

The Department's decision is **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 January 18, 2012, application, to determine if all nonmedical eligibility criteria for MA and MA-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 and MA-retroactive benefits to Claimant, including supplements for lost benefits to which Claimant is entitled in accordance with policy;

3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits in 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: April 19, 2012

Date Mailed: April 19, 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:

