

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

New Reg. No.: 20123447
Old Reg. No.: 201046019
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACR 400.919 upon the request of the Claimant.

ISSUE

Does Claimant meet the disability standard for Medical Assistance (MA-P) retro to [REDACTED]?

FINDINGS OF FACTS

This Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], ALJ Carmen G. Fahie issued a Decision & Order in which the Administrative Law Judge upheld the Department of Human Services (DHS) denial of MA-P benefits.
2. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received Claimant's request for Rehearing/Reconsideration.
3. On [REDACTED] MAHS granted the Claimant's request for reconsideration and issued an Order of Reconsideration to all parties.
4. On [REDACTED] Claimant applied for MA-P benefits retro to [REDACTED].
5. Claimant has a history of poorly controlled type I diabetes mellitus, chronic low back pain, diabetic gastroparesis, and peripheral neuropathy.

6. On [REDACTED] the Medical Review Team (MRT) denied Claimant's request for MA-P benefits.
7. On [REDACTED] the Department sent Claimant written notice that his application for MA-P had been denied.
8. On [REDACTED] the Department received Claimant's hearing request, protesting the denial of MA-P benefits.
9. The State Hearing Review Team (SHRT) upheld the denial of MA-P benefits.
10. Claimant was admitted to the hospital from [REDACTED] due to Streptococcus Salivarius sepsis secondary to dental caries and gingivitis, poorly controlled type I diabetes mellitus, left upper extremity ulcer secondary to methicillin-resistant staphylococcus aureus, chronic low back pain, malnutrition and pedal edema, diabetic gastroparesis, and peripheral neuropathy.
11. On [REDACTED], Claimant was admitted to the hospital with a diagnosis of skin lesions and diabetic ketoacidosis; while hospitalized his blood sugars continued to be very erratic; and he grew staphylococcus in his blood and had significant urinary retention.
12. On [REDACTED] Claimant was admitted to the hospital due to skin lesions; Claimant has had many medical problems with worsening of some, and since mid [REDACTED] he had a 30-pound weight loss with 3-4 months of illness, vomiting, increased weakness and fatigue, which caused difficulty standing for any length of time and dizziness; and the doctor's impression was community-acquired Staph aureus bacteremia, likely MRSA and a poorly controlled diabetic and diabetic ketoacidosis with chronic upper extremity and trunk lesions, and suggested diabetic a lipoidica.
13. On [REDACTED] Claimant submitted an application for Supplemental Security Income (SSI) with the Social Security Administration (SSA).
14. SSA determined that Claimant met the federal SSI disability standard in [REDACTED] but did not determine Claimant's disability onset date or whether he was disabled prior to the month he filed the SSI application.
15. Claimant date of birth is [REDACTED] he has a limited educational background; and at the time relevant to this matter he was 6'1 at 138lbs.
16. Claimant was not engaged in substantial gainful activity at any time relevant to this matter.

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 Family Independence Agency (FIA or agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 4000.105; MSA 16.490 (15). Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

Pursuant to Federal Rule 42 CFR 435.50, the Family Independence Agency uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months...

20 CFR 416.905

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

SSA process Claimant's [REDACTED] SSI application for SSI benefits and determined that Claimant meets the federal SSI disability standard. However, SSA did not determine Claimant's disability onset date or determine disability prior to the SSI application month.

In this case, the assigned ALJ correctly found that Claimant established a severe impairment and stated that at the time relevant to this matter, Claimant had hospitalizations for his uncontrolled diabetes and multiple infections. The ALJ found that Claimant was not disqualified from receiving disability at Step 2 because it is a de minimus standard. (*See p.9 of the ALJ's January 17, 2012 Decision and Order*)

Claimant established that his severe impairment meets the MA-P 1-year duration standard. Claimant established a history of poorly controlled type I diabetes mellitus, chronic low back pain, diabetic gastroparesis, and peripheral neuropathy. Claimant provided objective medical evidence to establish that he has experienced many medical

problems with worsening of some, a significant weight loss, vomiting, increased weakness, fatigue, difficulty standing for any length of time and dizziness. SSA approved Claimant for SSI based on having essentially the same severe physical impairment or combination of medical problems that he had when hospitalized in [REDACTED]. Therefore, this Administrative Law Judge finds that Claimant's meets the federal SSI disability standard for MA-P retro to [REDACTED].

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that Claimant meets the disability criteria for MA-P benefits beginning [REDACTED].

IT IS THEREFORE ORDERED that:

The Administrative Law Judge's decision dated [REDACTED], is **REVERSED**. IT IS FURTHER ORDERED that the Department shall determine whether Claimant is otherwise eligible for MA-P beginning [REDACTED].

/s/ _____
Marya A. Nelson-Davis
Administrative Law Judge Manager
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 2, 2013

Date Mailed: May 3, 2013

*****Notice*****

The Claimant may appeal this Reconsideration Decision to Circuit Court within 30 days of the mailing of this Reconsideration Decision.

MAND/ki

cc:

[REDACTED]