

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-42375
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 13, 2012
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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, a hearing was held on June 13, 2012 in Detroit, Michigan. Claimant appeared and testified. Claimant was represented by [REDACTED] of [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED], ES.

Following the hearing, the record was kept open for the receipt of additional medical evidence. However, Claimant did not attend medical appointments made on her behalf by the Department, and no additional medical evidence was received by the record close date as noted in the Interim Order of June 13, 2012.

ISSUE

Did the Department properly determine that claimant is not disabled for purposes of the Medical Assistance (MA-P) program?

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 November 17, 2011, Claimant filed an application for MA benefits. The application requested MA-P retroactive to August of 2011.

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2. On December 20, 2011, the Medical Review Team (MRT) determined that Claimant was not disabled.
3. The Department notified Claimant of the MRT determination on December 27, 2011.
4. On March 26, 2012, the Department received Claimant's timely request for hearing.
5. On May 16, 2012, the State Hearing Review Team (SHRT) determined that Claimant was not disabled.
6. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for additional medical records. However, Claimant did not attend medical appointments made on her behalf by the Department, and no additional medical evidence was received by the record close date as noted in the Interim Order of June 13, 2012.
7. At the time of the hearing, Claimant was 60 years old, with a birth date of [REDACTED]
8. Claimant has a high school education.
9. Claimant is not currently working.
10. Claimant has a work history as a hotel housekeeper.
11. Claimant was admitted into a hospital for chest pain, accelerated hypertension, acute cerebrovascular accident, chronic back pain, and chronic obstructive pulmonary disease on September 18, 2011, but her condition improved during admission. (Exhibit 1, pp 13, 14)

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, 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 Tables ("RFT").

Federal regulations require that the Department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

...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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. (SGA) 20 CFR 416.920(b).

In this case, Claimant is not currently working. Claimant testified credibly that she is not currently working and the Department presented no contradictory evidence. Therefore, Claimant is not disqualified for MA at this step in the sequential evaluation process.

Second, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment expected to last twelve months or more (or result in death) which significantly limits an individual’s physical or mental ability to perform basic work activities. The term “basic work activities” means the abilities and aptitudes necessary to do most jobs. Examples of these include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;

- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

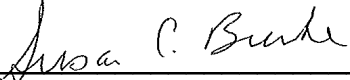
In this case, medical evidence shows that Claimant was admitted into a hospital for chest pain, accelerated hypertension, acute cerebrovascular accident, chronic back pain, and chronic obstructive pulmonary disease on September 18, 2011, but her condition improved during admission. (Exhibit 1, pp 13, 14) Claimant did not attend medical appointments made on her behalf by the Department (Exhibit 3), and no additional medical evidence was received by the record close date as noted in the Interim Order of June 13, 2012. Based on the above discussion, it cannot be found that Claimant suffers from an impairment that is expected to last twelve months or more, and it is therefore concluded that Claimant is not disabled for purposes of the MA program.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P benefit program.

Accordingly, it is ORDERED:

The Department’s determination is AFFIRMED.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 25, 2012

Date Mailed: September 25, 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

SCB/cl

cc:

Wayne County DHS (82)

S. Burke