

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 43949
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: June 11, 2012
DHS County: Oakland County (02)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held in Detroit, Michigan, on June 11, 2012. The Claimant appeared and testified. [REDACTED], Assistance Payments Supervisor appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") benefit program and the State Disability Assistance Program?

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance seeking MA-P benefits and retro benefits and State Disability Assistance benefits on October 27, 2011.
2. On March 8, 2012, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit 1, pp.3,4)
3. The Department notified the Claimant of the MRT determination on March 13, 2012.

4. On March 28, 2012, the Department received the Claimant's timely written request for hearing.
5. On May 14, 2012 the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 2)
6. An Interim Order was issued on June 13, 2012, to accept new medical evidence. The new evidence was submitted to the State Hearing Review Team on July 23, 2012.
7. On September 6, 2012, the State Hearing Review Team found the Claimant was disabled and eligible for MA-P and SDA as of 6/26/12 with retro MA-P and SDA as of 3/25/12. (Exhibit 4)
8. The SHRT Decision found the Claimant not capable of past relevant work, but capable of light work, and therefore determined that Claimant was disabled pursuant to Rule 202.04 , 20 CFR 416.920, on the basis of her age (55), education, prior work history and residual functional capacity. The SHRT decision allowed retroactive application of eligibility for 90 days to March 25, 2012. (Exhibit 4 pp 2)
9. The September 6, 2012 SHRT decision also recommended that the Department evaluate the appointment of a representative payee for the Claimant in accordance with Department policy.
10. The Claimant alleges physical disabling impairments of degenerative disc disease with neuroforaminal narrowing and carpal tunnel syndrome in both hands.
11. The Claimant has alleged mental disabling impairments of depression with schizoaffective disorder and bipolar disorder with psychosis.
12. At the time of hearing, the Claimant was [REDACTED] years old with a [REDACTED] birth date. Claimant is currently age [REDACTED] Claimant is 5'5" in height; and weighed 200 pounds.
13. The Claimant has a high school education and an employment history working as a car parts handler, dispatcher for manufacturing line repair and quality control handling and checking car gears.
14. The Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

The Medical Assistance (“MA”) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, 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 Manual (“BRM”).

The State Disability Assistance program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. Department policies are found in BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness automatically qualifies an individual as disabled for purposes of the SDA program.

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(a).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual’s current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a) (4); 20 CFR 416.945.

In this case the State Hearing Review Team found that the Claimant was disabled at Step 5 finding that the Claimant was capable of light work. The SHRT Decision found Claimant eligible as of 6/26/12, due to the Claimant’s turning 55 years of age, and thus satisfying the age requirements and also in consideration of Claimant’s education, work history and residual functional capacity pursuant to Rule 202.04. The SHRT denied

disability for the period prior to March 25, 2012 finding that due to Claimant's age at that prior time (54) that she was not disabled applying Rule 202.13.

For purposes of this Decision, the SHRT decision Step 5 analysis, finding the Claimant is capable of light work is adopted as correct, however, its analysis and determination that the Claimant's disability onset date June 25, 2012 is not adopted.

Social Security age classifications are not to be applied mechanically, and age as a factor of eligibility in borderline situations should not be applied mechanically if the facts and the overall impact of the factors in this case are considered. Upon a finding that a claimant is capable of performing at a certain exertional level, the claimant's circumstances are placed into a grid for a determination of whether he or she is disabled. A claimant's age need not be mechanically applied. SSA states, "If you are within a few days to a few months of reaching an older age category, and using the older age category would result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluating the overall impact of all the factors of your case." 20 CFR 416.963(b).

In this case the evidence reveals that the Claimant suffers degenerative disc disease with neuroforaminal narrowing and carpal tunnel syndrome in both hands. The Claimant has mental disabling impairments including depression, schizoaffective disorder and bipolar disorder with psychosis and a recent hospitalization for her mental condition. The Claimant has had these conditions since an industrial accident she occasioned at her job in 2007. Claimant's mental and physical disabling impairments have progressively worsened as demonstrated by her medical history and current treatment.

Although the Claimant was [REDACTED] at the time of her application and thus technically considered a person approaching advanced age, individual guidelines in 416.963(b) instructs that age categories in paragraphs (c) through (e) of section 416.920 (f)(1) are not to be applied mechanically in borderline situations. If an individual is within a few months of reaching an older age category and using the older age category would result in a determination or decision that one is disabled, the older age category may be considered after evaluating the overall impact of all the factors of your case.

Based on Claimant's relative close proximity to her [REDACTED] birthday at the time of application, October 27, 2011, it is determined that the Claimant should be credited as a person that is of advanced age. In light of the foregoing, is found that the Claimant's physical and mental conditions have been continuous and deteriorating such that after review of the entire record and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as well as 416.963(b) as a guide, and specifically considering

the Claimant in the category as a person of advanced age, Rule 202.02, it is found that the Claimant is disabled for purposes of the MA-P program at Step 5.

In this case, the Claimant is found disabled for purposes of the MA-P program.

The State Disability Assistance program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. Department policies are found in BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness automatically qualifies an individual as disabled for purposes of the SDA program.

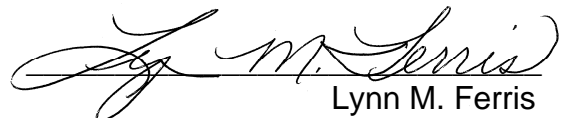
In this case, the Claimant is found disabled for purposes of the MA-P program; therefore, he is found disabled for purposes of SDA benefit program.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Claimant disabled for purposes of the MA-P.

Accordingly, It is ORDERED:

1. The Department is ordered to initiate processing of the Claimant's MA-P, Retro MA-P and SDA application dated October 27, 2011 and award required benefits, provided Claimant meets all non-medical eligibility requirements.
2. The Department shall supplement the Claimant for any lost benefits (if any) that the Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.
3. The Department shall initiate review of the Claimant's disability case in September 2013, in accordance with Department policy.
4. The Department may consider the appointment of a protective payee for the Claimant, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

2012-43949/LMF

Date Signed: September 28, 2012

Date Mailed: September 28, 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

