

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201245152  
Issue No: 2009  
Case No: [REDACTED]  
Hearing Date: June 26, 2012  
Lenawee County DHS

**ADMINISTRATIVE LAW JUDGE:** William A. Sundquist

**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 on Tuesday, June 26, 2012. Claimant appeared and provided testimony on his behalf. The Department's witness was [REDACTED].

**ISSUE**

Was disability, as defined below, medically established?

**FINDINGS OF FACT**

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

1. Claimant's MA-P application on June 24, 2011 was denied on March 28, 2012 per BEM 260, with a hearing request on April 10, 2012.
2. Vocational factors: Age 42, with high school education, and history of unskilled/semi-skilled work (Medical Packet, Page 177).
3. Last employment ended in 2008; reduced unemployment compensation benefits started in 2008 and became full unemployment compensation benefits on May 2, 2011 and ended June 18, 2012.
4. Disability is alleged due to a combination severe physical impairment (Medical Packet, Page 260)
5. Medical reports state the Claimant on:
  - a. February 14, 2012, his examination revealed sclera non-icteric; that pupils are midsized are reactive to light; that expansion of the lungs is equal and symmetrical bilaterally without evidence of rhonchi,

- rales or wheezing; that heart examination does not show any murmur or gallops, S1 and S2 are normal; that examination does not show any acute arthritis, arthropathy, joint swelling or deformity; that movement at the left shoulder was significantly limited; that movement at the right shoulder was only slightly limited; that movement at the knee was only slightly limited; that there was some limit on walking; that Claimant can ambulate without any assistance and can dress/undress without any difficulty; that heel, toe, and tandem walking was almost impossible; that movements of all joints are normal; that grasp is 4/5 symmetrical bilaterally; that he can get on and off examination table; that fists formation was normal; that balance was normal; that neurologically all cranial nerves are intact (Medical Packet, Pages 20 and 21).
- b. April 14, 2011, is well-developed and well-nourished; that conjunctivae are normal; that right eye exhibits no discharge; that left eye exhibits no discharge; that cardiovascularly he has a normal rate and regular rhythm; that pulmonary/chest effort was normal; that there is no respiratory distress; that musculoskeletally he has a normal range of motion; that neurologically his coordination is normal (Medical Packet, Page 66).
  - c. April 16, 2011, he was in no acute distress; that HEENT was unremarkable; that he had no rhonchi, wheezing or crackles; that he had regular rate and rhythm cardiovascularly (Medical Packet, Page 60).
  - d. June 6, 2011, has stage 3 moderate kidney functioning disease (Medical Packet, Page 23).
  - e. June 6, 2011, his condition is stable (Medical Packet, Page 173).
  - f. June 28, 2011, his condition is stable (Medical Packet, Page 174).
  - g. June 28, 2011, his condition can be substantially reduced by treatment; that he has limitations in walking, reaching, standing, lifting, pushing, stooping, climbing; that he is physically able to work full-time with physical limitations (Medical Packet, Page 186).
6. SHRT decision dated May 25, 2012 states the Claimant's impairments do not meet/equal a Social Security listed impairment (Medical Packet, Page 259).

### **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 Department

of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Facts above are undisputed.

"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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

When determining disability, the federal regulations are used as a guideline and require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).

4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, disability is not denied. The evidence of record established the Claimant has not been engaged in substantial gainful activities since 2008.

At Step 2, disability is denied. The medical evidence of record, on date of application, does not establish the Claimant's significantly functional incapacity to perform basic work activities due to a combination severe physical impairment for 1 year continuous duration, as define below

### **Severe/Non-Severe Impairment**

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

**Non-severe impairment(s).** An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities. 20 CFR 416.921(a).

**Basic work activities.** When we talk about basic work activities, we mean 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).

### **SEVERE IMPAIRMENT**

To qualify for MA-P, claimant must first satisfy both the gainful work and the duration criteria (20 CFR 416.920(a)) before further review under severity criteria. If claimant does not have any impairment or combination of impairments which significantly limits physical or mental ability to do basic work activities, an ultimately favorable disability determination cannot result. (20 CFR 416.920(c)).

The evidence of record establish the Claimant was an unemployment compensation benefits recipient before, on, and after date of MA-P application.

In addition, claimant does receive unemployment compensation benefits. In order to receive unemployment compensation benefits under the federal regulations, a person must be monetarily eligible. They must be totally or partially unemployed. They must have an approvable job separation. Also, they must meet certain legal requirements which include being physically and mentally able to work, being available for and seeking work, and filing a weekly claim for benefits on a timely basis. This Administrative Law Judge finds that claimant has not established that she has a severe impairment or combination of impairments which have lasted or will last the durational requirement of 12 months or more or have kept her from working for a period of 12 months or more.

The medical reports of record are mostly examination, diagnostic and treatment reports. They do not provide medical assessments of Claimant's physical limitations relative to his functional incapacity to perform basic work activities, as defined above. 20 CFR 416.913(c)(1) and (2). Stated differently, does the combination physical impairments medically impair the Claimant slightly, mildly, moderately (non-severe impairment, as defined above) or severely, as defined above?

The medical evidence of record does not establish a combination severe physical impairment meeting the one year continuous duration requirement. It established a non-severe impairment.

If disability had not already been denied at Step 2, it would also be denied at Steps 3, 4 and 5. The medical evidence or record, on date of application, for the required durations, does not establish Claimant's impairments meet/equal a Social Security listing at Step 3, inability to perform any past work at Step 4, and without a residual functional capacity (RFC) to perform any other work in the National Economy at Step 5.

Therefore, disability has not been established at Step 2 and also has not been established at Steps 3, 4 and 5 by the competent, material and substantial evidence on the whole record

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that disability was not medically established.

Accordingly, MA-P denial is **UPHELD**.

/s/  
William A. Sundquist  
Administrative Law Judge  
For Maura D. Corrigan, Director  
Department of Human Services

Date Signed: July 3, 2012

Date Mailed: July 3, 2012

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

WAS/tb

cc:

