

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-53704
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: July 25, 2012
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 July 25, 2012, at the Department of Human Services (Department) office in Oakland County, Michigan, District 03. Claimant was represented by [REDACTED]. The Department was represented by [REDACTED].

ISSUE

Was the denial of claimant's application for Medical Assistance (MA-P) benefits for lack of disability correct?

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 applied for MA-P on November 29, 2011.
2. Claimant alleges disability due to hypertension, stroke, enlarged heart, back problems, obesity, shortness of breath, vision deficiency, personality changes, mood swings, and emotional outbursts.
3. On January 6, 2012, the Medical Review Team denied MA-P, stating that claimant was not receiving treatment.
4. On April 27, 2012, claimant was sent a notice of case action.

5. Claimant filed for hearing on May 18, 2012.
6. On June 7, 2012, the State Hearing Review Team (SHRT) denied MA-P, stating that claimant was capable of performing other work.
7. On July 25, 2012, a hearing was held before the Administrative Law Judge.
8. Claimant did not appear at the hearing.
9. Claimant's representative did appear at the hearing.

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 administers the MA program 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).

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

Disability is defined as the inability to do any substantial gainful activity (SGA) 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.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

The first step that must be considered is whether the claimant is still partaking in SGA. 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2012 is \$1,690. For non-blind individuals, the monthly SGA amount for 2012 is \$1,010.

In the current case, claimant did not appear at the hearing to testify that she is not working, and although the Department has presented no evidence or allegations that claimant is engaging in SGA, the burden of proof falls solely on claimant. Therefore, because there is no evidence, the Administrative Law Judge cannot determine whether claimant is engaging in SGA and, thus, fails the first step of the sequential evaluation process and cannot be found disabled.

While it is true that the substantial weight of the medical evidence could direct a finding of disabled, the Administrative Law Judge can only proceed to the medical evidence if the claimant can show, through a preponderance of the evidence, that she is not engaged in SGA. Claimant has failed to do so in the present case. Therefore, as claimant has failed to show that she is not engaged in SGA, the undersigned has no choice than to rule that claimant has failed to meet her burden of proof and, ultimately, fails step one of the five-step process. As claimant has not passed step one of the five-step process, a finding of not disabled is directed. 20 CFR 416.920(b).

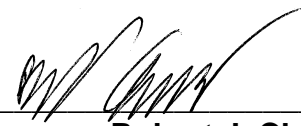
Furthermore, as a finding of no disability is directed at this step, further analysis is not required. 20 CFR 416.920.

Accordingly, this Administrative Law Judge finds that claimant is not disabled for the purposes of the Medical Assistance disability program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not disabled for the purposes of the MA program. Therefore, the Department's decision to deny claimant's MA-P application was correct.

Accordingly, the Department's decision in the above-stated matter is, hereby, **AFFIRMED**.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 1, 2012

Date Mailed: August 1, 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

RJC/pf

cc:

