

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

IN THE MATTER OF:



Reg. No.: 2012-55102
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: August 13, 2012
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on August 13, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) and State Disability Assistance (SDA) programs?

FINDINGS OF FACT

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

1. On June 1, 2011 and May 23, 2012, Claimant filed applications for MA and SDA benefits. The applications also requested MA retroactive to March 1, 2011, and February 1, 2012, respectively.
2. On April 30, 2012, and May 25, 2012, the Department sent Notices of Case Action to Claimant, denying the applications.
3. On May 24, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age forty-six [REDACTED] has a tenth-grade education. He was a Special Education student.

5. Claimant last worked in 2005 as a tire retread technician, lifting and stacking semi-truck tires and rims, and repairing and recapping them. Claimant's relevant work history consists exclusively of unskilled, heavy-exertional work activities.
6. Claimant has a history of two heart attacks, triple bypass heart surgery, lower back pain, severe pain in both legs, pain and numbness in his feet, tightness in his chest, difficulty lifting, difficulty standing more than ten minutes and difficulty walking more than one-half block. His onset date is [REDACTED] when he had triple bypass surgery and two heart attacks.
7. Claimant was hospitalized in [REDACTED] as a result of irreversible ischemia. The discharge diagnosis was acute coronary syndrome and coronary artery disease, with a recommendation to continue heart medications, and instructions to follow up with his primary care physician.
8. Claimant currently suffers from heart, chest, spine and lower extremity impairments.
9. Claimant has severe limitations of his ability to lift, stand and walk. Claimant's limitations have lasted or are expected to last twelve months or more.
10. Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

SDA provides financial assistance for disabled persons and was established by 2004 PA 344. The Department administers SDA pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and RFT.

The Administrative Law Judge concludes and determines that Claimant **IS NOT DISABLED** for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.

OR

2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.

OR

3. Claimant is capable of performing previous relevant work.

OR

4. Claimant is capable of performing other work that is available in significant numbers in the national economy.

The Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's physical and/or mental impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

State the Listing of Impairment(s):

4.04 Ischemic heart disease.

[W]ith symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following:

....

A4. Documented ischemia at an exercise level equivalent to 5 METs or less on appropriate medically acceptable imaging, such as radionuclide perfusion scans or stress echocardiography. 20 CFR Ch. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments, Sec. 4.04.

OR

2. Claimant is not capable of performing other work that is available in significant numbers in the national economy.

First, it is found and determined that Claimant's May 24, 2012, hearing request is timely as to both his 2011 and 2012 applications, which were denied on April 30, 2012, and May 25, 2012, respectively.

The following is an examination of Claimant's eligibility as required by the federal Code of Federal Regulations (CFR). 20 CFR Ch. III, Secs. 416.905, 416.920. The State of Michigan is required to use the federal Medicare five-step eligibility test in evaluating applicants for the Michigan Medicaid program.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since 2005. Accordingly, it is found and determined that Claimant is not engaged in substantial gainful activity, and the first requirement of eligibility is fulfilled.

Second, in order to be eligible for MA, Claimant's impairment must be sufficiently serious and be at least one year in duration. In this case, Claimant's onset date is [REDACTED]. [REDACTED] Claimant suffered two heart attacks and had a triple bypass after the first of the two heart attacks. [REDACTED] Claimant was hospitalized for coronary artery disease. His discharge diagnosis was irreversible ischemia.

Based on this information of record, it is found and determined that Claimant's impairments are of sufficient severity and duration to fulfill the second eligibility requirement.

Turning now to the third requirement for MA eligibility approval, the factfinder must determine if Claimant's impairment is listed as an impairment in the federal Listing of Impairments, found at 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments. In this case, it is found and determined that Claimant's impairment meets the definition in Listing 4.04, Ischemic heart disease (IHD), and its subpart, section 4.04A4. This Listing is set forth above in full.

Listing of Impairment 4.04, Ischemic heart disease, requires that certain symptoms be present, and describes these symptoms in Listing 4.00E3. Claimant testified to feeling continuous chest pain which he would describe as pressing, crushing, squeezing burning, aching and oppressive. All of these descriptive terms appear in Listing 4.00E3 as recognized symptoms of ischemic heart disease (IHD).

While at a medical examination held at the Department's request, Claimant reported sharp chest pain in the mid-sternal area, accompanied by shortness of breath. This happens almost every day, and lasts for as much as ten minutes.

In addition to evidence of appropriate symptoms, Claimant must present the results of an exercise or chemical stress test demonstrating the existence and severity of IHD. Claimant did not have an exercise stress test, but he took a chemical test, the adenosine stress test with nuclear imaging. The requirements for a chemical test are found at subsection 4.04A4.

Subsection 4.04A4 requires that the Claimant present documentation showing an exercise level equivalent to 5 METs or less on appropriate medically acceptable images such as radionuclide perfusion scans or stress echocardiography. Claimant had such a test at [REDACTED], and it demonstrated that he has irreversible ischemia. No other details or numerical results of the adenosine stress test were presented.

Claimant testified he cannot pay for the medications that have been prescribed for him. He is currently homeless and sleeps on couches at his friends' houses.

In addition, Claimant testified that he has another impairment as well. Claimant was advised that he has two herniated discs which will require surgery in the future. Claimant testified he experiences sharp, sticking and cramping discomfort daily in both legs. He is very weak from the pain and can barely walk. He sometimes experiences swelling, tingling and numbness in both feet and this requires him to stop walking. He can walk for two blocks and then he needs to sit down. He can stand for only 15-20 minutes. He can sit for one-half hour and then has to "wake up" his legs. He can lie down for no more than one-half hour, and cannot sleep through an entire night. His range of motion of the lower back is limited, and he can do no bending and very little twisting. He cannot make sharp moves, and the pain from such a move can last as long as three weeks.

In evaluating the severity of Claimant's IHD, the factfinder must consider the lack of treatment due to economic reasons, the Claimant's medical history, his testimony as to pain, his ongoing exertional abilities, his stress test results and his other impairments. Although Claimant has not received continuous treatment for ischemia, his medical history is evidence of the existence of the impairment. Also, Claimant presented credible and un rebutted testimony as to his symptoms and pain. Third, Claimant's stress test resulted in a finding of irreversible ischemia, indicating that the damage to his heart muscle is sufficiently serious as to be continuous. This means that Claimant's IHD will not only occur as a result of exercise or stress, but that it is continuously present.

While Claimant did not present the specific numeric information requires in Listing 4.04A, his test results did indicate he has a severe condition that appears to be equivalent in severity to the numerical results in the Listing. It is found that this is so, especially in light of his credible and un rebutted testimony and his history of heart attacks, surgery and the presence of IHD.

It is, therefore, found and determined that Claimant's medical impairment meets, or is equivalent to, the requirements of Listing of Impairment 4.04, Ischemic heart disease. Claimant, therefore, has established his eligibility for MA at the third step of the evaluation based on his physical impairment.

As Claimant is found by the undersigned to be eligible for MA based solely on a physical impairment, it is not necessary to proceed further to the last two eligibility requirements of the five-step Medicare eligibility sequence.

In conclusion, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be

NOT DISABLED DISABLED

for purposes of the MA program. The Department's denial of MA benefits to Claimant is

AFFIRMED **REVERSED**

Considering next whether Claimant is disabled for purposes of SDA, the individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM Item 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record finds that Claimant

DOES NOT MEET **MEETS**

the definition of medically disabled under the Medical Assistance and State Disability Assistance programs as of the onset date of 2009.

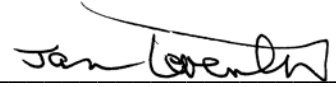
The Department's decision is

AFFIRMED **REVERSED**

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate processing of Claimant's 2011 and 2012 applications to determine if all nonmedical eligibility criteria for retroactive and ongoing MA and SDA benefits have been met.
2. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate processing of retroactive and ongoing MA and SDA benefits to Claimant, including any supplements for lost benefits to which Claimant is entitled in accordance with policy. Claimant's onset date is 2009.
3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits in September 2013.

4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 15, 2012

Date Mailed: August 16, 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

JL/pf

cc:

