

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-60128
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 3, 2012
County: Oakland (63-02)

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 October 3, 2012, at Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. 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) program?

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 March 22, 2012, Claimant filed an application for MA benefits. The application requested MA retroactive to December 1, 2011.
2. On June 13, 2012, the Department sent a Notice to Claimant, denying the application.
3. On June 13, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, age twenty-two [REDACTED] has a twelfth-grade education.

5. Claimant last worked in March 2012 as sandblaster in a truck shop. Claimant also performed relevant work as a grocery bagger and freight loader. Claimant's relevant work history consists exclusively of unskilled medium and heavy exertional work activities.
6. Claimant has a history of patellar dislocation. His onset date is [REDACTED].
7. Claimant was hospitalized [REDACTED], as a result of left knee reconstruction surgery with autograft. The discharge diagnosis was to follow up with his physician, use medications and crutches, perform a home exercise program, elevate and ice the area, and attend physical therapy.
8. Claimant currently suffers from post-surgery patellar dislocation.
9. Claimant has severe limitations of his ability to walk, stand, lift and carry. Claimant's limitations have lasted or are expected to last less than twelve months.
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 not 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): _____.

OR

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

The following is an examination of Claimant's eligibility for Medicaid. The State of Michigan Department of Human Services is required by the Code of Federal Regulations (CFR) to use the U.S. Social Security Act's Title XVI Supplemental Security Income five-step test for evaluating applicants for the Michigan Medicaid disability program. 20 CFR Ch. III, Secs. 416.905, 416.920; 42 CFR 435.540.

First, the Claimant must not be engaged in substantial gainful activity.

The law defines disability 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 Sec. 416.905.

In this case, Claimant testified that he has not worked since March 13, 2012. Claimant testified he has a job as a sandblaster, to which he expects to return within a year of his injury.

It is found and determined that Claimant has substantial gainful employment from which he is on a temporary medical leave. It is further found and determined that his impairment is anticipated to last less than one year, and that Claimant will return to work in one year or less.

Accordingly, it is found and determined that the first requirement of eligibility is not fulfilled, and Claimant is engaged in substantial gainful activity. As Claimant is

disqualified from receiving Medicaid benefits at the first step of the required five-step eligibility analysis, it is not necessary to proceed further through steps 2-5.

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**

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 program as of the onset date of [REDACTED]

The Department's decision is

AFFIRMED **REVERSED**



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

Date Signed: October 15, 2012

Date Mailed: October 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:

