

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-67586
Issue No: 2009;4031
[REDACTED]
Hearing Date: October 18, 2012
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 to protest the denial of claimant's application for MA. After due notice, a telephone hearing was held on October 18, 2012. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. On April 1, 2012, claimant filed an application for Medical Assistance, and State Disability Assistance benefits for medical review.
2. On July 11, 2012, the Medical Review Team denied claimant's continued application stating that claimant had medical improvement.
3. On July 18, 2012, the department caseworker sent claimant notice that his review application was denied.
4. On July 30, 2012, claimant filed a request for a hearing to contest the department's negative action.
5. On September 19, 2012, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: the medical evidence documents that significant medical improvement has been evidenced. The claimant has been released to past work by their treating physician and the claimant on forms DHS-49-BU and DHS-49-F indicates that they are currently employed. The medical evidence of record

indicates that significant medical improvement has been evidenced (20CFR416.994) and that the following now applies to this claim: the claimant is not currently engaging in substantial gainful activity based on the information that is available in file. The claimant's impairments/combination of impairments does not meet/equal the intent or severity of a Social Security Administration listing. The medical evidence of record indicates that the claimant retains the capacity to perform medium exertional tasks. The claimant's past work was as a funeral home assistant, 339.361-010, 6M; and school custodian, 381.137-010, 6M. Therefore, the claimant retains the capacity to perform their past relevant work. Continuing MA-P is denied per 20CFR416.920(e&f). Continuing SDA is denied per BEM 261 due to the capacity to perform past relevant work. Retroactive MA-P was not considered as part of this continuing MA-P and SDA only review. Listings 1.04, 6.02 and 12.04 were considered in this determination.

6. The hearing was held on October 18, 2012. At the hearing, claimant waived the time periods and requested to submit additional medical information.
7. Additional medical information was submitted and sent to the State Hearing Review Team on October 30, 2012.
8. On December 6, 2012, the State Hearing Review Team approved claimant stating in its analysis and recommendation: the claimant has a history of a spinal fusion and renal cell carcinoma with right nephrectomy in March, 2011. He also has a history of myxoid liposarcoma which was resected approximately 2007. He had recurrence of his myxoid fibrosarcoma in the right shoulder and underwent wide resection in September, 2012. Diagnosis was malignant neoplasm of connective and other soft tissue of the upper limb, including shoulder, myxoid fibrosarcoma. The medical evidence sufficiently demonstrates that the intent and severity of listing 13.04A is met/equaled. MA-P is continued/ approved. SDA is continued/approved per PEM 261. At the medical review (December, 2013), please attach the prior medical file, obtain updated application forms and updated medical records.
9. Claimant is a 58-year-old man whose birth date is [REDACTED]. Claimant is 5'11" tall and weighs 209 pounds. Claimant is a high school graduate. Claimant is able to read and write and does have basic math skills.
10. Claimant is currently working part time for [REDACTED] [REDACTED] [REDACTED] as a custodian 20 hours per week earning \$ [REDACTED] hr.
11. Claimant alleges as disabling impairments: shoulder surgery, sarcoma, degenerative disc disease, kidney surgery and depression.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Because of the SHRT determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability, per BAM, Item 600.

The department is required to initiate a determination of claimant's financial eligibility for the requested benefits, if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant meets the definition of medically disabled under the Medical Assistance Program and the State Disability Assistance Program as of the medical review date of April 1, 2012.

Accordingly, the department is **ORDERED** to initiate a review of the application if it is not already done so, to determine if all other non-medical eligibility criteria are met. The department shall inform the claimant of the determination in writing.

A medical review should be scheduled for December, 2013. The department should assist claimant in gathering updated medical information at that time.

It is ORDERED that the department shall review this case in one year from the date of this Decision and Order.

/s/ _____

Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 2, 2013

Date Mailed: January 2, 2013

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.

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

LYL/las

cc:

