

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

IN THE MATTER OF:

████████████████████
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████████████████████

Reg No: 201271698
Issue No: 2009
Case No: ██████████
Hearing Date: November 28, 2012
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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, an in person hearing was held on November 28, 2012. Claimant appeared and testified. Claimant's Authorized Hearings Representative, L&S Associates through, Hector Lugo, also appeared. The Department was represented by Sally Wilson, Lead Worker.

ISSUE

Did the Department properly deny Claimant's Medical Assistance application?

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 March 30, 2012, with a request for retroactive coverage back to February 2012.
2. The Medical Review Team denied the application on May 22, 2012.
3. Claimant filed a request for hearing on August 15, 2012, regarding the MA denial.
4. An in person hearing was held on November 28, 2012.
5. On September 27, 2012, the State Hearing Review Team denied the application because the medical evidence of record does not document a mental/physical impairment that significantly limits the Claimant's ability to perform basic work activities.
6. Claimant is 5' 3" tall and weighs 188 pounds.

7. Claimant is 52 years of age.
8. Claimant's impairments have been medically diagnosed as asthma and heart problems
9. Claimant has the following symptoms: pain, fatigue, shortness of breath, and blurred vision.
10. Claimant completed high school and some college.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is not working. Claimant last worked in 2005 as a cashier.
13. Claimant lives alone.
14. Claimant testified that he cannot perform some household chores.
15. Claimant takes the following prescribed medications:
 - a. Cipro
 - b. Metroprolol
 - c. Naproxen
 - d. Pravastatin
 - e. Tramadol
 - f. Nitro
 - g. Besiacre
 - h. Singulair
16. Claimant testified to the following physical limitations:
 - a. Sitting: all day with foot elevated
 - b. Standing: 5-10 minutes
 - c. Walking: 1 block
 - d. Bend/stoop: difficulty
 - e. Lifting: 5-10 lbs.
 - f. Grip/grasp: no limitations
17. Claimant testified to experiencing pain at a high level of 7 on a 10 point scale with some pain always present at a low level of 2-3.
18. At hearing updated records were gathered, Claimant agreed to this and waived timeliness standards.

19. On June 13, 2013, the State Hearing Review Team approved MA-P effective 8/1/12. Retro MA-P was denied. This was based on approval for Social Security Disability benefits.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Department policy at BEM 260 states that if a claimant has been found eligible by the Social Security Administration, the person meets the Department's MA disability criteria. No other evidence is required to establish disability. In the present case, the Claimant was found disabled by the Social Security Administration and has presented prima facie evidence of the same. This disability was found by the Social Security Administration to be disabled as of August, 2012. Therefore, the Administrative Law Judge finds that the Claimant met the Department's definition of disabled for the purposes of MA-P in May, 2012.

Final SSI Disability Determination:

SSA's determination that disability or blindness does **not** exist for SSI is **final** for MA if:

- The determination was made after 1/1/90, **and**
- No further appeals may be made at SSA; see [EXHIBIT II](#) in this item, **or**
- The client failed to file an appeal at any step within SSA's 60 day limit, **and**
- The client is **not** claiming:
 - A totally different disabling condition than the condition SSA based its determination on, **or**
 - An additional impairment(s), or change, or deterioration in his condition that SSA has **not** made a determination on.

Eligibility for MA based on disability or blindness does **not** exist once SSA's determination is **final**. BEM 260

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is medically disabled as of May, 2012, for the purposes of the MA program, pending a review of all non-medical eligibility factors.

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

The Department is ORDERED to process Claimant's Medicaid application of March 30, 2012, and initiate a review of all non-medical eligibility factors, if it has not already done so. Coverage shall be activated effective May, 2012, based on the social security approval. The denial for retroactive MA coverage is affirmed and the denial for coverage prior to May, 2012, is also affirmed. This Administrative Law Judge is bound by a final ruling of the Social Security Administration. BEM 260 It should also be noted that Claimant failed to apply for social security benefits at the time of application as required by Department policy and her original application could have been denied on that basis at the time of application.

The Department is further ORDERED to initiate a full review of this case in July 2014.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 07/10/2013

Date Mailed: 07/10/2013

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 affect the substantial rights of the claimant,
 - 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

AM/pw

cc: [REDACTED]
[REDACTED]
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