

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-72821
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: December 3, 2012
County: Wayne (82)

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 hearing was held on December 3, 2012, at Detroit, Michigan. The Claimant appeared and testified at the hearing. Participants on behalf of Claimant were the Claimant, his wife [REDACTED] and his Authorized Representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) were [REDACTED], Family Independence Manager.

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 April 19, 2012, Claimant filed an application for MA benefits. The application requested MA retroactive to January 1, 2012.
2. On May 25, 2012, the Department denied the application.
3. On August 13, 2012, Claimant filed a request for an Administrative Hearing.
4. Claimant, who is fifty-two years old ([REDACTED]), has an Associates Degree in Science from Madonna University.

5. Claimant last worked in 2008 as a tool and die maker. Claimant was a tool and die maker over the past thirty years. Claimant's relevant work history consists exclusively of skilled, heavy-exertional work activities.
6. Claimant has a history of right subdural hematoma, right parietal skull fracture and right intraparenchymal hemorrhage. His onset date is April 16, 2012, when he fell at a CVS store.
7. Claimant was hospitalized April 16-26, 2012 as a result of his injuries. The discharge diagnosis was improved, with follow-up care.
8. Claimant currently suffers from sequelae of right subdural hematoma, right parietal skull fracture and right intraparenchymal hemorrhage.
9. Claimant is not severely limited in the basic living skills of sitting, standing, walking, lifting, carrying, pushing and pulling. Claimant's limitations have not lasted and may not 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 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).

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 following is a five-step examination of Claimant's eligibility for Medicaid. The State of Michigan Department of Human Services is required by the U.S. Code of Federal Regulations (CFR) to use the U.S. Social Security Act Title XVI Supplemental Security Income five-step test, for evaluating applicants for the Michigan Medicaid disability program. 20 CFR 416.905, 404.1505; 416.920; 42 CFR 435.540.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since 2008. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, and the Claimant is not engaged in substantial gainful activity. 20 CFR 404.1520(b), 416.920(b); Dept. Exh. 1, p. 31.

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 April 16, 2012. Claimant fell at a CVS store and was hospitalized for ten days. He was treated for right subdural hematoma, right parietal skull fracture and right intraparenchymal hemorrhage 20 CFR 404.1509; 404.1520(c), 404.1521; Dept. Exh. 1, pp. 4-8.

Having taken into consideration all of the evidence in this case as a whole, it is found and concluded that Claimant has not met the second-step requirements of the five-step eligibility test. First, it is only ten months since Claimant's onset of disability, therefore the one-year requirement has not been met. However, if the evidence showed that the impairment was sufficiently severe or that it was expected to last more than one year, the fact that the injury occurred only ten months ago would not be decisive. *Id.*

However, there is nothing in the record to establish that Claimant received medical treatment since the injury other than Claimant's testimony. The factfinder must base his or her decision on more than the Claimant's word regarding his medical status. There must be medical evidence produced in addition to the Claimant's testimony. Claimant submitted hospital records documenting his injury, but he failed to present records of subsequent treatment for a continuing condition. 20 CFR 416.929(a).

Based on this information of record, and all of the evidence in this case taken as a whole, it is found and determined that Claimant failed to prove that his impairments are of sufficient severity and duration to fulfill the second eligibility requirement. Therefore the Department's denial of MA benefits is affirmed. 20 CFR 404.1520(c), 404.1521, 416.920(c).

Further, 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 April 16, 2012.

The Department's decision is

AFFIRMED **REVERSED**



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

Date Signed: February 11, 2013

Date Mailed: February 11, 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:

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- 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/tm

cc:

