

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-8764

2011-5422

Issue No: 2009, 4031

Case No: [REDACTED]

Hearing Date: February 3, 2011
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

RECONSIDERATION 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. After due notice, an in-person hearing was held on February 3, 2011. Claimant was represented at the hearing by [REDACTED]

This hearing was originally held by Administrative Law Judge [REDACTED]. [REDACTED] is no longer affiliated with the Michigan Administrative Hearing System Administrative Hearings for the Department of Human Services. This hearing decision was completed by Administrative Law Judge Landis Y. Lain by considering the entire record.

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 February 11, 2010, claimant filed an application for Medical Assistance and State Disability Assistance and retroactive Medical Assistance benefits alleging disability.
- (2) On August 4, 2010, the Medical Review Team denied claimant's application stating that claimant could perform other work pursuant to Vocational Rule 202.21.
- (3) On August 6, 2010, the department caseworker sent claimant notice that her application was denied.

- (4) On November 4, 2010, claimant's representative filed a request for a hearing to contest the department's negative action.
- (5) On November 29, 2010, the State Hearing Review Team again denied claimant's application stating in its analysis and recommended decision: The objective medical evidence present does not establish a disability at the listing or equivalence level. The collective medical evidence shows that the claimant is capable of performing a wide range of light work. Claimant's impairments do not meet/equal the intent or severity of a Social Security Listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of light work. Therefore, based on the claimant's vocational profile of a younger individual, 12th grade education, and semi-skilled work history, MA-P is denied using Vocational Rule 202.21 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work at the above stated level for 90 days. .
- (6) The hearing was held on February 3, 2011. 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 February 4, 2011.
- (8) On February 16, 2011, the State Hearing Review Team again denied claimant's application stating in its analysis and recommended decision the objective medical evidence does not establish a disability at the listing or the equivalence level. The collective medical evidence shows that claimant is capable of light work. The claimant's impairments do not meet/equal the intent or severity of a Social Security Listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of light work. Therefore, based on the claimant's vocational profile of a younger individual, 12 years of education and light work history, MA-P is denied using Vocational Rule 202.21 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.
- (9) On the date of hearing claimant was a 41-year-old woman whose date of birth is [REDACTED]. Claimant is 5'3" tall and weighs 250 pounds. Claimant attended the 11th grade. Claimant is able to read and write and does have basic math skills.

- (10) Claimant last worked as a baby-sitter for her daughter's children. Claimant has also worked as a nurse's aide and as a long-term care manager and as a deli manager.
- (11) Claimant alleges as disabling impairments: chronic obstructive pulmonary disease, migraines, anxiety, learning disability, diabetes and depression.
- (12) On September 15, 2011, Administrative Law Judge Landis Y. Lain issued a decision and order affirming the department's denial of claimant's application.
- (13) On September 23, 2011, the Social Security Administration issued a fully favorable decision for claimant for Supplemental Security Income with a disability onset date of January 31, 2004.
- (14) On October 14, 2011, L and S Associates filed a request for reconsideration based on the Social Security Administrations decision.
- (15) On December 9, 2011, Administrative Law Judge Manager Marya A. Nelson Davis ordered the reconsideration.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 (PAM), the Program Eligibility Manual (PEM) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues **raised in the hearing request**.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/ reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request.

A written request made by the AHR or, if none, by the client, must be faxed to:

- (517) 335-6088- Attention: SOAHR Client Requested Rehearing/Reconsideration
- SOAHR (now MAHS) will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR (MAHS).
- Client or authorized hearing representative request -- received anywhere in DHS.

Granting A Rehearing/ Reconsideration

All Programs

SOAHR (MAHS) will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing. SOAHR (MAHS) grants a rehearing/reconsideration request if:

- The information in the request justifies it; **and**
- **There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.**
- **If the** client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an Order which requires a delay or stay.

If such an order is received by the client, SOAHR, the court or the Legal Affairs, or if there are questions about implementing the order; see Administrative Handbook manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services. BEM, Item 600.

A person eligible for Supplemental Security Income (SSI) benefits based on his disability or blindness meets the disability or blindness criteria. Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. The Social Security Administration (SSA) determines SSI eligibility.

In Michigan, DHS supplements federal SSI payments based on the client's living arrangement. Thus, in this item **SSI recipient** means a Michigan resident who receives the basic federal payment, the state supplement, or both.

To be **automatically** eligible for Medicaid (MA) an SSI recipient must both:

- Be a Michigan resident.
- Cooperate with third-party resource liability requirements.

DHS administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end.

Ongoing MA eligibility begins the first day of the month of SSI entitlement. Some clients also qualify for **retroactive** (retro) MA coverage for up to three calendar months prior to SSI entitlement; see [BAM 115](#), [BEM item 150](#), [page 1](#)

Because of the Social Security Administration determination, this Administrative Law judge must vacate the prior decision to affirm the Department's determination that

claimant was not disabled for the February 11, 2010 application date. It is no longer necessary for the Administrative Law Judge to address the issue of disability under the circumstances. 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 based upon the September 23 2011 decision by the Social Security Administration that found claimant disabled under Social Security rules with an SSI disability onset date of January 31, 2004. Claimant meets the definition of medically disabled under the medical assistance and retroactive medical assistance program as of the February 11, 2010 application date and for the retroactive months of January 2010, December 2009, and November 2009 based upon the retroactive Medical Assistance Application.

Accordingly, the September 15, 2011 decision to deny claimant eligibility for Medical Assistance, State disability Assistance, and Retroactive Medical Assistance benefits is hereby **VACATED**. The department is **ORDERED** to initiate a review of the February 11, 2010 Assistance, State disability Assistance and Retroactive Medical Assistance Application, if it has not already done so, to determine if all other non-medical eligibility criteria are met, and if so, determine eligibility for Medical Assistance and Retroactive Medical Assistance for the months of effective SSI entitlement, and State disability Assistance from February 11, 2010 forward. The department shall inform the claimant of the determination in writing. The department is also **ORDERED** to conduct a medical review of claimant's eligibility in June 2012.

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

Date Signed: December 14, 2011

Date Mailed: December 14, 2011

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

LYL /ds

