

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201320553
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County: Macomb DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on April 8, 2013, from Detroit, Michigan. Claimant did not appear for the hearing. [REDACTED] testified and appeared as Claimant's authorized hearing representative. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On 2/24/12, Claimant applied for MA benefits, including retroactive MA benefits from 11/2011.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 9/21/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual.
4. On 9/26/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 12/10/12, Claimant requested a hearing disputing the denial of MA benefits.
6. On 2/15/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 204.00
7. On 4/8/13, an administrative hearing was held.
8. Claimant failed to appear for the administrative hearing.
9. Claimant's AHR presented new medical documents (A1-A28) which were forwarded to SHRT for a reconsideration of a disability determination.
10. On 6/10/13, SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 204.00

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). DHS (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies (see BEM 260 at 1-2):

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;

- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) 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 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2012 income limit is \$1010/month.

In the present case, Claimant failed to participate in the administrative hearing. A claimant seeking MA benefits based on disability is expected to testify concerning SGA. During the hearing, Claimant's mother testified via telephone. She testified that she sees her son irregularly. She stated that she last saw him four days ago, but there were longer gaps between the times that she sees him. She testified that her son has not been employed in the prior year. She testified that her son has not lived with her since he was in the hospital, though a specific date of hospitalization was not provided.

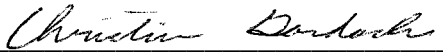
Claimant's mother's testimony concerning her son's employment is not persuasive evidence concerning SGA. It is likely that Claimant's mother honestly believed that her son was not employed, however, it is impossible for her to have direct knowledge of her adult child's employment status since 11/2011, particularly when factoring irregular visitation by Claimant.

Based on the presented evidence, it is found that Claimant failed to establish not receiving employment income amounting to SGA. Accordingly, Claimant is found to be not disabled and that DHS properly denied Claimant's application for MA benefits.

It should also be noted that there is an apparent second reason to deny Claimant's MA benefit application. The SHRT decision dated 6/10/13 noted that Claimant was deemed to be not disabled by SSA and to have exhausted the appeals process. Though this was not a consideration in the denial of Claimant's MA benefit application, if this fact was established at hearing, the SSA decision denying disability would be binding to the DHS determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefit application dated 2/24/12, including retroactive MA from 11/2011, based on a determination that Claimant is not disabled. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/25/2013

Date Mailed: 6/25/2013

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 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

CG/hw

cc:

