

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

IN THE MATTER OF:

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

Reg. No.: 2013-20917
Issue No.: 2009
Case No.: ██████████
Hearing Date: June 10, 2013
County: Oakland (03)

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 June 10, 2013, at Walled Lake, Michigan. The Claimant appeared and testified at the hearing. Participants on behalf of Claimant were ██████████, ██████████, ██████████, Claimant's Authorized Representative. Participants on behalf of the Department of Human Services (Department) were ██████████, Eligibility Specialist.

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 October 31, 2012, Claimant filed an application for MA benefits. The application requested MA retroactive to August 1, 2012.
2. On December 18, 2012, the Department denied the application.
3. On January 2, 2013, Claimant filed a request for an Administrative Hearing.
4. Claimant, who is fifty-five years old years old (██████████), has a twelfth-grade education.

5. Claimant last worked in 2008 as a part-time cashier at a gas station. Claimant also performed relevant work as a bus driver. Claimant's relevant work history consists exclusively of unskilled, medium-exertional work activities.
6. Claimant has a history of coronary artery disease (CAD), degenerative disc disease, blood clots in the lungs and legs, and reconstructive knee surgery. His CAD onset date is October, 2006.
7. Claimant was hospitalized in 2006 and 2012 as a result of CAD, deep vein thrombosis and pulmonary embolism. The discharge diagnosis was stable condition.
8. Claimant currently suffers from coronary artery disease (CAD), degenerative disc disease, blood clots in the lungs and legs, and reconstructive knee surgery.
9. Claimant is severely limited in the basic living skills of standing, sitting, walking, lifting and carrying. Claimant's limitations have lasted or are expected to 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 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 that Claimant **IS DISABLED** for purposes of the MA program, for the following reason:

1. Claimant's physical and/or mental impairment(s) meet a Federal SSI Listing of Impairment(s) or its equivalent.

State the Listing of Impairment:

4.04C Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC [Medical Consultant], preferably one experienced in the

care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence showing:
 - a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or
 - b. 70 percent or more narrowing of another nonbypassed coronary artery; or
 - c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or
 - d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or
 - e. 70 percent or more narrowing of a bypass graft vessel; and
2. Resulting in very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living. 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairment 4.04C; see *also*, 20 CFR 404.1520(d).

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. 6.

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 2006. In October, 2006, Claimant was diagnosed with coronary artery disease. He had angioplasty surgery (percutaneous transluminal coronary angioplasty) and three stents were inserted in his arteries. He attempted to work part-time as a cashier in 2008, but left the job because of his medical condition. 20 CFR 404.1520(c), 404.1521; Dept. Exh. 1, p. 28-29, 73.

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's impairments are of sufficient severity

and duration to fulfill the second eligibility requirement. 20 CFR 404.1520(c), 404.1521, 416.920(c).

Turning now to the third-step requirement for MA eligibility approval, the factfinder must determine if Claimant's impairment is the same as, or equivalent to, an impairment in the federal Listing of Impairments, found at 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments. In this case it is found and determined that Claimant's impairment meets or is the equivalent of Listing 4.04C, Coronary artery disease. This Listing is set forth above in full. 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairment 4.04C; see *also*, 20 CFR 404.1520(d).

The first required point, or element, of Listing 4.04C is that the Claimant must have a diagnosis of CAD which is demonstrated by appropriate medically accepted imaging. Listing of Impairment 4.04C, *above*. The 2012 medical records reflect a history of a 2006 CAD diagnosis resulting in the implantation of three stents in Claimant's coronary arteries. Dept. Exh. 1, pp. 29, 32-34, 36-37, 40, 72-73.

It is found and determined that, notwithstanding the absence of the medical records from 2006, it is reasonable to conclude that Claimant had a sufficiently serious case of CAD in 2006, such that the medical decisionmakers managing his case opted to insert three stents. It is found and determined that the fact that this surgical procedure was undertaken, is circumstantial evidence supporting a conclusion that Claimant had more than 50% occlusion, or its equivalent, of the two arteries in which the stents were placed. This inference supports a conclusion that the angiographic evidence required in Listing 4.04C, or its equivalent, is met in this case.

It is further found and determined that Claimant reported his 2006 medical history accurately at the hospital in both 2006 and 2012 for the purpose of receiving proper medical care. The history he gave at the hospital is consistent with his current medical condition and his hearing testimony. Listing of Impairment 4.04C.

Following the 2006 diagnosis and placement of the stents, Claimant attempted to work, and ultimately left work in 2008 for health reasons. He has not worked since 2008.

Then, in August, 2012, Claimant experienced shortness of breath and was admitted to the hospital for four days. He underwent a CT scan, chest x-ray, ultrasound and echocardiogram tests. His physical exam noted swelling in the left lower extremity. The diagnosis was bilateral pulmonary embolism with deep vein thrombosis, and CAD. *Id.*, pp. 31-37, 80-83, 94-97.

Based on this evidence, and all of the evidence in this case considered in its entirety, it is found and determined that Claimant has established that he does have coronary artery disease or its equivalent, and that it is documented by acceptable medical imaging techniques.

The next requirement of Listing 4.04C is that the Claimant must show that his impairment resulted in very serious limitations in his ability to independently initiate, sustain or complete the activities of daily living. Listing 4.04C2.

The facts regarding Claimant's ability to conduct the activities of daily living are as follows. Claimant has not worked since 2008. In responses to Department questionnaires, Claimant reported he cannot sit for more than one hour, he cannot stand for more than forty minutes, and he can walk only about 150 ft. before his legs give out and he has to sit down. He reported that he has muscle spasms, and shoulder, neck and knee pain from a 1993 motorcycle accident. His sleep is affected in that he can lie in one position for only twenty minutes and must then change his position. He can perform house and yard work for only one hour at a time. He has not played golf in seven years. He has blood tests monthly at the St. Joseph Mercy-Oakland Anti-Coagulation Clinic, to monitor his heart condition. Dept. Exh. 1, pp. 4-6, 8-11, 26.

Claimant's testimony was consistent with the medical evidence of record and the Claimant's responses to Department questionnaires. Claimant testified that he walks very slowly. He is on Warfarin, a blood thinner, due to blood clots in his lungs and legs. He has blood tests for anti-coagulation every month. In the August-September, 2012 period, when the deep-vein thrombosis occurred, he was able to sit for only a few hours, he could stand for only ten minutes, he could walk for only 150 ft., and could lift only ten lbs. He could not do any housework, and had difficulty with stairs. He could not bend to tie his shoes, or reach overhead, and the range of motion in his neck was decreased. He stated he sleeps only three hours a night.

Considering all of the evidence in this case taken as a whole, it is found and determined that Claimant's impairment does limit his activities of daily living very seriously, as described in Listing 4.04C2. It is found and determined that Claimant meets the requirement of serious limitation set forth in Listing 4.04C2, or its equivalent. This last point concludes the analysis of whether Claimant meets the requirements of Listing 4.04C, and, the conclusion is that Claimant does meet those requirements.

Based on all of the evidence in this case considered as a whole, it is therefore found and determined that Claimant's medical impairment meets, or is equivalent to, the requirements of Listing of Impairment 4.04C, Coronary artery disease. Claimant therefore has established eligibility for Medicaid based on a physical impairment. Listing of Impairment 4.04C.

As Claimant is found by the undersigned to be eligible for MA based solely on a physical impairment, it is not necessary to proceed further to the last two eligibility requirement steps of the five-step Medicare eligibility sequence. *Id.*

In conclusion, 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

It is further found as fact that Claimant's onset date of disability is October, 2006.

Considering next whether Claimant is disabled for purposes of SDA, the individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits, should he apply for them.

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 October, 2006.

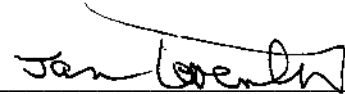
The Department's decision is

AFFIRMED REVERSED

THE DEPARTMENT SHALL BEGIN THE PROCESS OF THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate processing of Claimant's October 31, 2012, application and retroactive application, to determine if all nonmedical eligibility criteria for MA benefits have been met.
2. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate processing of MA benefits to Claimant, including supplements for retroactive benefits for August, 2012 and September, 2012 to which Claimant is entitled in accordance with policy.

3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits in August, 2014.
4. All steps shall be taken in accordance with Department policy and procedure.



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

Date Signed: June 25, 2013

Date Mailed: June 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

JL/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
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