

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

IN THE MATTER OF:

Reg No: 2013-28545

Issue No: 2009

Eaton County DHS (00)

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, a telephone hearing was held on [REDACTED]. Claimant appeared along with a witness [REDACTED] and both testified. The Department was represented by [REDACTED] ES.

ISSUE

Did the Department properly deny Claimant's Medical (MA) 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 [REDACTED]
2. The Medical Review Team denied the application on [REDACTED].
3. Claimant filed a request for hearing on [REDACTED] regarding the MA denial.
4. A telephone hearing was held on [REDACTED]
5. On [REDACTED] the State Hearing Review Team denied the application because the medical evidence of record indicates that the Claimant retains the capacity to perform a wide range of light work.
6. Claimant is [REDACTED] tall and weighs [REDACTED] pounds having lost 15-20 pounds in the last year.

7. Claimant is [REDACTED] years of age.
8. Claimant's impairments have been medically diagnosed as HIV, back pain and depression.
9. Claimant has the following symptoms: pain, fatigue, memory and concentration problems, and insomnia.
10. Claimant completed 9th grade.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is not working. Claimant last worked full time in [REDACTED] as a landscaper.
13. Claimant lives alone.
14. Claimant testified that he cannot perform household chores.
14. Claimant takes the following prescribed medications:
 - a. Tramadol
 - b. Flexeril
15. Claimant testified to the following physical limitations:
 - i. Sitting: 30 minutes
 - ii. Standing: 15-20 minutes
 - iii. Walking: 4-5 block
 - iv. Bend/stoop: some difficulty
 - v. Lifting: 8 lbs.
 - vi. Grip/grasp: no limitations
16. Claimant testified to experiencing pain at a high level of 4-5 on an everyday basis with some pain always present at a low level of 9-10.
17. An MRI report dated [REDACTED] showed the following under impression: "1. Mild degenerative disc disease along the mid to lower lumbar spine with a far left lateral disc protrusion at the level of the L5-S1 causing compression on the exiting left L5 nerve root."
18. An MRI report dated [REDACTED] showed the following under impression: "1. Broad-based disc protrusion at the L3-L4 level causing narrowing of the lateral recesses, worse to the left. 2. Right paracentral disc extrusion and annular tear superimposed upon broad-based bulging at L4-L5. Findings contribute to lateral recess narrowing bilaterally, worse

on the right. 3. Degenerative changes at L5-S1 with right lateral disc extrusion causing asymmetry mass effect on the right S1 nerve root. 4. Facet arthropathy and degenerative changes at L3-L4, L4-L5 and L5-S1 causing foraminal narrowing as described but no frank foraminal stenosis seen. 5. Canal narrowing most marked at the L3-L4 level. No definitive evidence for lumbar canal stenosis, however is identified.”

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 Medical Assistance (MA-P) 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 administers the MA-P 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).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity 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.

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

...the inability to do any substantial gainful activity 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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Claimant is not working, therefore, the Claimant is not disqualified at this step in the evaluation.

The second step to be determined in considering whether the Claimant is considered disabled is whether the severity of the impairment. In order to qualify the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, reaching carrying or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and
6. Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, the Claimant's medical evidence of record supports a finding that Claimant has significant physical and mental limitations upon Claimant's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; Medical evidence has clearly established that the Claimant has an impairment (or combination of impairments) that has more than a minimal effect on the Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant meets listing 1.04 or its equivalent. The testimony of Claimant's treating therapist supports this position. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of the listing. Claimant has other significant health problems that were not fully addressed in this decision because Claimant is found to meet a listing for a different impairment.

Therefore, Claimant is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of [REDACTED] [REDACTED]

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application for MA dated [REDACTED] [REDACTED] [REDACTED] if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for [REDACTED]



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

Date Signed: 06/14/2013

Date Mailed: 06/14/2013

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.

2013-28545/AM

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/kl

cc:

