

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-2969  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: February 14, 2013  
County: Wayne (82-82)

**ADMINISTRATIVE LAW JUDGE:** Jonathan W. Owens

**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, a telephone hearing was held on February 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Claimant was properly served notice of the hearing and failed to appear. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

**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 June 22, 2012, Claimant applied for MA-P and retro MA-P to March 2012.
2. On August 10, 2012, the Medical Review Team denied Claimant's request.
3. On October 4, 2012, Claimant submitted to the Department a request for hearing.
4. The State Hearing Review Team (SHRT) denied Claimant's request.
5. Claimant is 38 years old.

6. Claimant completed education through the 12<sup>th</sup> grade.
7. On May 29, 2012, a DHS-49F was completed on behalf of Claimant and signed by his representative. This form indicated that Claimant was currently employed providing transportation for a Nursing home. This form indicated Claimant was not on sick leave. On a separate DHS-49B form, Claimant's representative indicated Claimant worked 20 hours a week at a pay rate of \$10 an hour.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from pneumonia and hypertension.
10. According to the Department testimony, the Medical Review Team appears to have approved Claimant for MA-P as of June 2012 based upon a subsequent application. Claimant's representative testified a second application for MA-P had been filed in July 2012 seeking retro back to April 2012.

### **CONCLUSIONS OF LAW**

MA-P 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 MA-P 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 Bridges Reference Manual (RFT).

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

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first factor to be considered is whether the claimant can perform "Substantial Gainful Activity" (SGA) defined in 20 CFR 416.920(b). In this case, Claimant failed to appear at hearing to testify or provide evidence regarding his employment activities. The only evidence provided for consideration was a DHS-49F and DHS-49B completed by Claimant's representative. These forms acknowledged Claimant was working at the time of completion in May 2012. Further, the forms purport to demonstrate that Claimant earned \$10 an hour and worked 20 hours a week. The record is further complicated by the earnings records provided by the Social Security Administration, which show no reported earnings for Claimant after 2011. Claimant has failed to demonstrate he was or is not currently engaged in SGA.

Although Claimant could be found not disabled at this step of the analysis, this Administrative Law Judge will continue the analysis.

The second step to be determined in considering whether the claimant is considered disabled is 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).

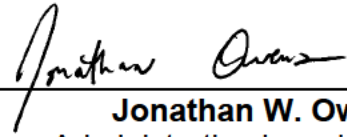
In this case, Claimant's medical evidence of record fails to support a finding that Claimant has significant physical and mental limitations upon his ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling in a routine work setting. Medical evidence has not clearly established that Claimant has an impairment (or combination of impairments) that has more than a minimal effect on Claimant's work activities. The only medical evidence provided for consideration was hospitalization records for [REDACTED]. Claimant was admitted and discharged on [REDACTED]. The discharge diagnosis was community-acquired pneumonia and hypertension. Claimant was released on [REDACTED], in stable condition. No medical evidence was submitted for the months of [REDACTED]. Claimant's DHS-49B and DHS-49F forms completed by his representative indicate only the one hospitalization in [REDACTED]. See Social Security Rulings 85-28, 88-13, and 82-63.

Therefore, based upon the above, Claimant is found not disabled at this step of the analysis for the months of [REDACTED].

#### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled prior to June 2012.

Accordingly, the Department's decision is hereby UPHeld.



**Jonathan W. Owens**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: February 19, 2013

Date Mailed: February 19, 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

JWO/pf

cc:

