

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-33277
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 Medicaid benefits. The application requested MA retroactive to July 1, 2012.
2. On January 3, 2013, the Department denied the application.
3. On February 27, 2013, Claimant filed a request for an Administrative Hearing.
4. Claimant, who is fifty-one years old (DOB ██████████), has a high-school education.

5. Claimant last worked in July, 2012 as a carpenter. Claimant has always worked as a carpenter since in 1984. Claimant's relevant work history consists exclusively of semi-skilled and skilled heavy exertional work activities.
6. Claimant has a history of coronary artery disease. His onset date is July, 2012.
7. Claimant was hospitalized July 24-26, 2012 as a result of coronary artery disease. The discharge diagnosis was stable condition.
8. Claimant currently suffers from coronary artery disease.
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 I 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 nonby-passed 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 Impairments; 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 July, 2012. 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 July, 2012. In 2012 Claimant had significant left ventricular systolic dysfunction and severe coronary artery occlusive disease, requiring hospitalization and the insertion of four stents in the left anterior descending and distal left circumflex arteries. Since the surgery, Claimant stopped working and is unable to work as a carpenter. He is in constant pain and cannot perform the basic skills of standing, sitting, walking, lifting and carrying. 20 CFR 404.1520(c), 404.1521; Dept. Exh. 1, pp. 4, 5, 10, 50-55.

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 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 Impairments; see *also*, 20 CFR 404.1520(d).

The following is an analysis as to how Claimant's impairment compares with the description presented in Listing 4.04C. First, the medical records indicate that Claimant was diagnosed with coronary artery disease on July 25, 2012, at St. Joseph Mercy-Oakland Hospital by means of cardiac catheterization. Dept. Exh. 1, p. 50.

The results of the catheterization demonstrated the same characteristics as presented in Listing 4.04C1d, "50 percent or more narrowing of at least two nonbypassed coronary arteries." Listing 4.04C1d. In Claimant's case, he had 100% occlusion of the left anterior descending coronary artery, and 80-90% stenosis of the left circumflex coronary artery. *Id.* Based on the medical records, it is therefore found and determined that Claimant's test results clearly meet and exceed the requirements of Listing 4.04C1d.

Next, the second requirement of Listing 4.04C is that Claimant must now suffer serious limitations in the activities of daily living. In response to Department questionnaires, Claimant stated he has problems with standing because of severe pain, and can stand for only ten minutes. He also stated he can walk for only ten minutes as well, due to neuropathy in both feet. Dept. Exh. 1, pp. 4-5.

In response to a Department questionnaire about his daily activities, he wrote that he does housework, fixes meals and shops since the impairment began, but he does everything more slowly because he is in pain. He can still do carpentry as a hobby, but only if he is able to sit long enough, and again he works more slowly and experiences pain. He saves heavy lifting jobs around the house for when friends come over. *Id.*, pp. 10-11.

Claimant's testimony at the hearing was consistent with the medical records and the responses to Department questionnaires. Claimant testified he has gained twenty pounds because he is inactive, and that is not how he used to be. He has excruciating pain which comes and goes, sometimes lasting for days or weeks. He experiences paralysis and cannot move. He is always in some pain.

Claimant testified that he has problems with swelling in both feet. He also experiences neuropathy including burning, tingling and pinpricks in his hands. He has difficulty picking up small things using his hands. He experiences joint pain and joint swelling.

With regard to basic skills, Claimant testified that he can only walk two blocks without having to stop and rest. With regard to sitting, he stated he is always uncomfortable in a sitting position, and squirms around a lot and moves his legs when driving. He stated he cannot stand at all when he is in pain, and because he is always in pain he did not know how long he could stand when not in pain.

As far as lifting, Claimant testified he could not lift more than twenty lbs., e.g., a bag of potatoes.

Claimant testified that he has no medical treatment and takes Ibuprophen constantly for pain. The Ibuprophen reduces his pain from a level of 10:10 (excruciating) to 5:10.

Having considered all of the records and testimony in this case as a whole, it is found and determined that Claimant has met the criteria of Listing 4.04C, Coronary artery disease, or its equivalent. Claimant has presented sufficient evidence to establish that he has the diagnosis of coronary artery disease, he has the required level of occlusion and stenosis in two arteries, and his condition causes serious limitations in his activities of daily living.

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 his physical impairment. Listing of Impairment 4.04C.

As Claimant is found by the undersigned to be eligible for MA based solely on his physical impairment, it is not necessary to proceed further to the last two requirements 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

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 choose to 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 July, 2012.

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, 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 retroactive and ongoing MA benefits to Claimant, including supplements for lost benefits 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 July, 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 24, 2013

Date Mailed: June 24, 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]
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