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

## IN THE MATTER OF THE CLAIM OF:

Reg. No.: 2013-5806 Issue No.: 2009 Case No.: Hearing Date: February 7, 2013 Oakland County DHS (04)

## ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

## HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Cla imant's request for a hearing. After due notice, an inperson hearing was held from Pontiac, Michigan on Februar y 7, 2013. The Claima nt did not appear; however, her Authorized Hearing Repres entative ("AHR"), appeared on her behalf. ES

appeared on behalf of the Department of Human Services ("Department").

## ISSUE

Whether the Department proper ly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") benefit program.

## FINDINGS OF FACT

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

- 1. The Claimant did not participate in the hearing process.
- 2. The Claimant/AHR submitted an application for public assistance seeking MA-P benefits on September 14, 2012 and Retro-MA-P benefits July, 2012.
- 3. On September 21, 2012, the Medical Review Team ("MRT") found the Claimant not disabled.
- 4. On October 5, 2012. the Department notified the Claimant of the MRT determination.

- 5. On October 12, 2012, the Department received the Claimant's timely request for hearing filed on her behalf by her AHR.
- 6. On November 13, 2012, the State H earing Review Team ("SHRT") found the Claimant not disabled.

#### CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independenc e Agency, pursuant to MCL 400.10 *et seq* and MCL 400.105. Department polic ies are found in the Bridge s Administrative Manual ("BAM"), the Bridges Elig ibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental im pairment 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). The person claiming a physical or mental disability has the burden to esta blish it through the use of competent medical evidence e from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescri bed treatment, prognosis for recovery and/or medical assessment of ability to do work-related ac tivities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CRF 413.913. An individual's subjective pain com plaints ar e not, in and of themselves, sufficient to establish disab ility. 20 CF R 416.908; 2 0 CFR 4 16.929(a). Similarly, conclusor y statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, t he federal regulations require several factors to be considered including: (1) the location/du ration/frequency/intensity of an applicant's pain; (2) the type/dosage/effe ctiveness/side effects of any medication the applic ant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the e ffect of the applic ant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to cons ider an individual's current work activit y;

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the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to det ermine whether an individual can perform past relev ant work; and residual functional capacity along with vocational factors (i .e. age, education, and work experienc e) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an indi vidual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual f unctional capacity is the most an indiv idual can do despite the limitations based on all relevant evidence. 20 CF R 945(a)(1). An individual's residua l functional capacity assessment is evaluat ed at both steps four and five. 20 CF R 416.920(a)(4). In determining disability, an i ndividual's functional capacity to perform basic work activities is evaluated and if found that the individ ual h as the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv).

In general, the individual has the responsibility to prove disability. 20 CFR 41 6.912(a). An impair ment or combination of impairments is not severe if it does not signific antly limit an in dividual's physica I or mental ability to do basic wor k activities . 20 CFR 416.921(a). An individual is not disabled r egardless of the medical condition, age, education, and work experience, if the i ndividual is working and the work is a substantial, gainful activity. 20 CFR 416.920(a)(4)(i). Substantial gainful activity means work that involves doing significant and productive physical or mental duties and is done (or intended) for pay or profit. 20 CFR 416.910(a)(b). Substantial gainful activity is work activity that is both substantial a nd gainful. 20 CFR 416.972. Work may be substantial even if it is done on a part-time basis or if an in dividual does less, with less responsibility, and gets paid less than prior employment. 20 CFR 416.972(a). Gainful work activity is work activity that is done for pay or profit. 20 CFR 416.972(b).

In the record presented, t he Claimant did not appear. Accordingly, the Cla imant's current employment status, ability to work, and/ or attempts of work is unkno wn. Under these facts, the Claimant cannot be found disabled for purposes of the MA-P program.

Accordingly, the Claimant is found not disabled and, thus, i neligible at Step 1 with no further analysis required.

#### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Claimant not disabled for purposes of the MA-P benefit program.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Lynn M. Ferris 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 Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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.

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Request must be submitted through the local DHS office or directly to MAHS by mail to: Michigan Administrative hearings

Re consideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

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