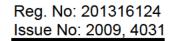
#### STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

## IN THE MATTER OF:





ADMINISTRATIVE LAW JUDGE: Aaron McClintic

# **DECISION AND ORDER**

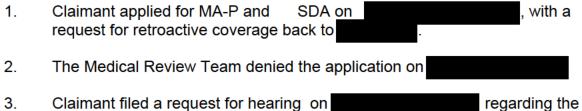
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant 's request for a hearing. After due notice, a telephone hearing was held on Claim ant appeared and testified. The Department was represented by

### ISSUE

Did the Department properly deny Claimant's Medical Assi stance program (MA-P) and State Disability Assistance (SDA) applications?

# FINDINGS OF FACT

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



- 3. Claimant filed a request for hearing on MA and SDA denials.
- 4. A telephone hearing was held on
- 5. On **Contract of the State Hearing Rev** iew Team denied the application because the medic allevidence of record indicates that the Claimant reasonably retains the ability to perform light exertional tasks.
- 6. Claimant is 5' 9" tall and weighs 200 pounds.

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- 7. Claimant is 36 years of age.
- 8. Claimant's impairments have been m edically diagnosed as back, neck, shoulder and leg injury, neuropathy, migraine headaches and closed head injury.
- 9. Claimant has the f ollowing s ymptoms: pain, fatigue, dizz iness and insomnia.
- 10. Claimant completed high school and an associate's degree.
- 11. Claimant is able to read, write, and perform basic math skills.
- 12. Claimant is not working. Claimant last wor ked in **Claimant** as a cook. Claimant previously worked as a furniture salesman.
- 13. Cla imant lives with his father.
- 14. Claimant testified that he cannot perform household chores.
- 15. Claimant takes the following prescribed medications:
  - a.
- 16. Claimant testified to the following physical limitations:
  - i. Sitting: 15-30 minutes
  - ii. Standing: 2 minutes
  - iii. Walking: 20 steps
  - iv. Bend/stoop: no difficulty
  - v. Lifting: no weight
  - vi. Grip/grasp: no limitations
- 17. Claimant testified to experiencing pain at a high level of 8 ½ on an every day basis.
- 18. Cla imant's treating physician, certificate dated state in this opinion, Claimant is disabled from employment from household duties from to
- An MRI report dated and the state of the following under impression:
  "1. Mild le voscoliosis. 2. L5-S1: C entral/left paracentral disc herniation measuring approximately 4.5mm. Bright T2 signal at the margin of the disc is not ed indicating an annular tear. There is left lateral reces s stenosis with probable left S1 nerve root impingement."

## 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 oppor tunity for a hearing shall be granted to an ap plicant who requests a hearing because his or her clai m for assistance has been denied. MAC R 400.903(1). Clients h ave the right to contes t a department decision affecting elig ibility or benefit levels whenev er it is believed that the decis ion is incorrect. The department will provide an adm inistrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medic al 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).

The State Disability A ssistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department polic ies are found in the Bridges Administra tive Manual (BAM), the Program Eligibility Manual (BEM) and the Bridges Reference Manual (PRM).

The Department conforms to state statute in administering the SDA program. 2000 PA 294, Sec. 604, of the statute states:

- (1) The department shall operat e a state disability assistance program. Except as provided in subsection
- (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:
  - (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
  - (b) A person with a phy sical or mental impairment whic h meets federal supplemental se curity income disability standards, exc ept that the minimum duration of the disability shall be 90 days. Sub stance abuse alone is not defined as a basis for eligibility.

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

...the inability to do any substant ial 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 r equire that the department use t he 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 indiv idual is disabled, 20 CFR 4 16.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual f unctional c apacity, 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 di sabled 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 t he individual is working and if the work is substantial gainful ac tivity. 20 CFR 416.9 20(b). In this case, the Claimant is not working; therefore, the Claimant is not disqualified a this step in the evaluation.

The second step to be determined in considering whether the Clai mant 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 ab ility to perform basic work activities. Examples of these include:

- 1. Physical functions s uch as walkin g, 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 t hat Claimant has significant physical and mental limitati ons upon Claimant's abili ty to perform basic work activities such as walk ing, 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 t han 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 J udge finds that Claima nt may be c onsidered presently disabled at the thir d 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 m edical 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 Cla imant 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 t he above findings of fact and conclusion s of law, decides that Claimant is medically disabled as of

Accordingly, the Departm ent's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application for S DA, MA-P and Retro MA dated in the determine Claimant's non-medical eligibility. The Department s hall inform Claimant of the determination in writing. A review of this case shall be set for

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McClintic Law Judge Maura Corrigan, Director of Human Services

Aaron Administrative for Department

Date Signed: 04/23/2013 Date Mailed: 04/23/2013 NOTICE: Administrative Hearings may order a rehearing or reconsider ation on either its own motion or at the request of a party within 30 days of the mailing date of this Decis ion and O rder. Administrative Hearings will not or der a rehearing or reconsideration on the Department's moti on where the final decision cannot be implemented within 60 days of the filing of the original request.

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 ot her relevant iss ues 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

