

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

**IN THE MATTER OF:**



Reg. No.: 201263512  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: October 10, 2012  
County: Montcalm

**ADMINISTRATIVE LAW JUDGE:** Janice G. Spodarek

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on October 10, 2012.

**ISSUE**

Did the Department of Human Services (DHS) properly deny Claimant's Medical Assistance (MA) 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. On 5/11/12, Claimant applied for MA with the Michigan Department of Human Services (DHS).
2. Claimant applied for 2 months of retro MA.
3. On 6/21/12, the MRT denied.
4. On 6/26/12, the DHS issued notice.
5. On 7/3/12, Claimant filed a hearing request.
6. On 8/21/12, the State Hearing Review Team (SHRT) denied Claimant. Pursuant to the Claimant's request to hold the record open for the submission of new and additional medical documentation, on 12/13/12 SHRT once again denied Claimant. After the undersigned Administrative Law Judge (ALJ) discovered in that a number of medical in Claimant's file

were medical records that were not for Claimant, the undersigned ALJ returned the file to SHRT. On 12/13/12 SHRT once again denied Claimant.

7. Claimant has an SSI application pending with the Social Security Administration (SSA).
8. Claimant was [REDACTED]-year-old standing 5'2 and weighing 147 pounds. This is a normal weight for Claimant. Medical evidence describes Claimant as well nourished.
9. Claimant testified that she does not have an alcohol/drug abuse problem or history. Claimant smokes. Claimant has a nicotine addiction.
10. Claimant has a [REDACTED] [REDACTED] and can drive an automobile.
11. Claimant has a [REDACTED] [REDACTED] [REDACTED]
12. Claimant is not currently working. Claimant testified that she worked in an cleaners for a short amount of time. Claimant also indicated that she has done production work. On Claimant's application for MA-P herein, Claimant indicated no work history.
13. Claimant alleges disability on the basis of pinch nerve in the neck, problems with the left side of her body, bad hips, osteoporosis paralysis.
14. The 12/13/12 SHRT findings and conclusions of its decision are adopted and incorporated by reference herein/to the following extent:

**Medical Summary:**

Prior medical:

3/12, office visit indicating Claimant had bruising and tenderness to the left 2<sup>nd</sup> toe, but no tenderness into the foot. Exhibit 52.

4/12, office visit on Exhibit 93 indicates cervical spine had muscle spasm and mildly reduced range of motion. No motor or sensory deficits. Exhibit 49.

4/9/12 letter notes that Claimant was being treated for chronic pain issues and she was unable work until they complete testing and have a treatment plan for her that will relieve her of her symptoms.

5/12 physical exam on Exhibit 44 indicates that Claimant had a lesion on her back that was seborrheic keratosis. Full range of motion of the right foot/ankle and no deformity, heat,

swelling or effusion. Left foot/ankle had mildly reduced range of motion and swelling. No motor or sensory deficit. No unusual anxiety or evidence of depression. She had an x-ray of the left ankle and foot.

New Medical:

9/11 Cervical Spine CT degenerative changes.

7/12 Abdominal CT Exhibit 18 markedly abnormal live with pattern of cirrhosis, portal hypertension with splenomegaly, ascites, cholelithiasis, and nephrolithiasis.

7/12 Physical examination Exhibits 27-29 – Claimant complained of abdominal pain, weight loss, hematemesis, and vomiting. Liver enzymes were elevated. Abdominal CT showed cirrhosis, ... she has a history alcohol abuse, denied any use for the past week. On exam, abdominal pain with palpation. EGD revealed esophageal varices without bleeding.

**Analysis:**

History of leg, ankle and foot pain. Conditions have stabilized, and Claimant is ambulatory. Also history alcohol cirrhosis with ascites. She has acute exacerbation of these conditions in 7/12, but her status improved with treatment. Despite the combination of impairments, Claimant retains the capacity to perform light, unskilled light.

**Recommendation.**

Denied per 202.10 as a guide.

15. Medical evidence does not indicate that Claimant has any mental difficulties.
16. Claimant has had number of negative radiology reports. See Exhibits 32, 33, 214, 204, 30, 31.
17. Claimant has had a radiology indicating fibroids.
18. There is no evidence of osteoporosis. Claimant has osteopenia.
19. An MRI of the CT spine concludes degenerative changes. Completed 9/30/11.

20. A 3/20/10 radiology reported the cervical spine concludes mild central disc protrusion, degenerative spondylosis, and no other significant findings.
21. The great bulk of Claimant's medical evidence are ER visits. Claimant has many prescriptions for Vicodin.
22. Claimant complains that she needs help at least two times a week for her household activities.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) 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 of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In order to receive MA benefits based upon disability or blindness, claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

Relevant federal guidelines provide in pertinent part:

"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.

The federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

The regulations require that if disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b). If no, the analysis continues to Step 2.
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.909(c).
3. Does the impairment appear on a special Listing of Impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment that meets the duration requirement? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.920(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. Sections 200.00-204.00(f)?
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? This step considers the residual functional capacity, age, education, and past work experience to see if the client can do other work. If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(g).

At application claimant has the burden of proof pursuant to:

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

Federal regulations are very specific regarding the type of medical evidence required by claimant to establish statutory disability. The regulations essentially require laboratory or clinical medical reports that corroborate claimant's claims or claimant's physicians' statements regarding disability. These regulations state in part:

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as sure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

It is noted that Congress removed obesity from the Listing of Impairments shortly after the removal of drug addition and alcoholism. This removal reflects the view that there is a strong behavioral component to obesity. Thus, obesity in-and-of itself is not sufficient to show statutory disability.

Applying the sequential analysis herein, claimant is not ineligible at the first step as claimant is not currently working. 20 CFR 416.920(b). The analysis continues.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in claimant's favor, this Administrative Law Judge (ALJ) finds that claimant meets both. The analysis continues.

The third step of the analysis looks at whether an individual meets or equals one of the Listings of Impairments. 20 CFR 416.920(d). Claimant does not. The analysis continues.

The fourth step of the analysis looks at the ability of the applicant to return to past relevant work. This step examines the physical and mental demands of the work done by claimant in the past. 20 CFR 416.920(f).

In this case, this ALJ finds that claimant cannot return to past relevant work on the basis of the medical evidence. The analysis continues.

The fifth and final step of the analysis applies the biographical data of the applicant to the Medical Vocational Grids to determine the residual functional capacity of the applicant to do other work. 20 CFR 416.920(g). After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge concurs with the SHRT decision in finding Claimant not disabled pursuant medical grid rule 202.10 as a guide.

In reaching this conclusion, it is noted that Claimant complains of multiple impairments. Claimant does not have any mental difficulties and there is no medical evidence to indicate the same.

Claimant's nicotine addiction is not recognized as statutorily disabling.

Claimant complains of osteoporosis on application. However, there is no medical evidence to indicate or support a medical diagnoses of osteoporosis. Claimant has osteopenia.

Claimant does have uterine fibroids. There is no indication and no medical evidence to show that such rises to statutory disability as it is anticipated or defined under Federal and State law.

The great bulk of Claimant's complaints and symptoms as testified to by Claimant do not meet the issues and consideration under Federal and State law found at 20 CFR 416.913, .927, .929.

Claimant has the burden of proof from Step 1 to Step 4. 20CFR 416.912(c). Federal and state law is quite specific with regards to the type of evidence sufficient to show statutory disability. 20 CFR 416.913. This authority requires sufficient medical evidence to substantiate and corroborate statutory disability as it is defined under federal and state law. 20 CFR 416.913(b), .913(d), and .913(e); BEM 260. These medical findings must be corroborated by medical tests, labs, and other corroborating medical evidence that substantiates disability. 20 CFR 416.927, .928. Moreover, complaints and symptoms of pain must be corroborated pursuant to 20 CFR 416.929(a), .929(c)(4), and .945(e). Claimant's medical evidence in this case, taken as a whole, simply does not rise to statutory disability by meeting these federal and state requirements. 20 CFR 416.920; BEM 260, 261.

As also noted in the findings of fact, Claimant has had a number of negative radiology reports. With regards to Claimant's primary complaints, Claimant's radiology reports indicate mild or degenerative. Mild is not severe under Federal and State law as to statutory disability. Degenerative is general normal aging; absent from showing that degenerative issues interfere with the individual's ability to engage in work or work like settings, normal aging is not recognized as statutorily disabling under Federal and State law.



For these reasons, and for the reasons stated above, statutory disability is not shown.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's determination in this matter is UPHeld.

/s/  
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Janice G. Spodarek  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 4/19/13

Date Mailed: 4/23/13

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing 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 at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

JGS/tb

cc:

