

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

IN THE MATTER OF:



Reg. No: 2012-73509
Issue No: 2009
Case No: [REDACTED]
Hearing Date: December 11, 2012
Sanilac County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 to protest the denial of claimant's application for MA. After due notice, a telephone hearing was held on December 11, 2012. Claimant personally appeared and testified.

ISSUE

Whether claimant meets the disability criteria for Medical Assistance (MA-P)?

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 August 1, 2012, claimant filed an application for Medical Assistance benefits alleging disability.
2. On August 23, 2012, the Medical Review Team denied claimant's application stating that claimant had medical improvement.
3. On August 28, 2012, the department caseworker sent claimant notice that her application was denied.
4. On August 31, 2012, claimant filed a request for a hearing to contest the department's negative action.
5. On October 16, 2012, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: the claimant is morbidly obese with a body mass index of 41.9. Her blood pressure is controlled. Lungs are clear and heart within normal limits.

There was no swelling of the extremities. The echo cardiogram and stress test was normal. The tilt table test was abnormal for orthostatic hypotension without syncope. Labs show her INR level or blood clotting time was normal. The MRI of the brain was normal. The diabetes was controlled. She had a lumpectomy with no reports of cancer recurrence. As a result of the claimant combination of severe physical and mental condition, she is restricted to performing light work. She retains the capacity to lift up to 20 lbs occasionally, 10 lbs frequently and stand and walk for up to 6 of 8 hours. Claimant is not engaging in substantial gainful activity at this time. Claimant's severe impairments do not meet or equal any listing. Despite the impairments, she retains the capacity to perform light work. Therefore, based on the claimant's vocational profile (claimant approaching advance age, 12th grade education, and light work history); MA-P is denied using Vocational Rule 202.13 as a guide.

6. The hearing was held on December 11, 2012. At the hearing, claimant waived the time periods and requested to submit additional medical information.
7. Additional medical information was submitted and sent to the State Hearing Review Team on December 11, 2012.
8. On January 18, 2013, the State Hearing Review Team approved claimant stating in its analysis and recommendation: this is a medical review benefits. Therefore, significant medical improvement must be shown to cease benefits. The claimant's benefits had previously been continued in August, 2011. At that time, her strength was 3/5 in the tibialis anterior bilaterally and 5/5 otherwise. She demonstrated both grasp myotonia and percussion myotonia. She could not walk on her heels but could walk on her toes. In September, 2012, the claimant displayed severe muscle cramping in her hands, shoulders and neck. She also had extreme weakness in the hand and was unable to grasp objects. The MDA clinic director indicated the claimant is unable to lift or grasp more than 10 lbs on an occasional basis and 5 lbs on a frequent basis. She cannot stand for more than 2 hours out of an 8 hour day (B3). Because of her grip strength, she has limited gross manipulation and limited fine manipulation. There is no evidence in file to suggest significant medical improvement. Benefits are continued. The claimant has not had any significant medical improvement. Therefore, per 20CF R416.994, benefits are continued/approved. At the medical review (January, 2014), please attach this prior medical file, obtain updated application forms and obtain updated medical information.

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).

Because of the SHRT determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability, per BAM, Item 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant continues to meet the definition of medically disabled under the Medical Assistance Program as of the August 1, 2012 medical review application date.

Accordingly, the department is **ORDERED** to initiate a review of the application if it is not already done so, to determine if all other non-medical eligibility criteria are met. The department shall inform the claimant of the determination in writing.

A medical review should be scheduled for February, 2014. The department should check to see if claimant is in current payment status or not. If the claimant is in current payment status at the medical review no further action will be necessary. However, if the claimant is not in current payment status at the medical review, the department is to obtain updated application forms (DHS49) and obtain updated medical records as well as the prior medical packet.

It is ORDERED that the department shall review this case in one year from the date of this Decision and Order.

Landis

/s/

Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 1, 2013

Date Mailed: February 1, 2013

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 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

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