

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

IN THE MATTER OF:

Reg. No: 20138270

Issue No: 2009

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 [REDACTED]. Claimant appeared along with her husband, [REDACTED] and both testified. The Department was represented by [REDACTED].

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA-P) program 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. Claimant applied for MA-P on [REDACTED]
2. The Medical Review Team denied the application on [REDACTED]
3. Claimant filed a request for hearing on [REDACTED], regarding the MA denial.
4. A hearing was held on [REDACTED]
5. On [REDACTED], the State Hearing Review Team denied the application because the Claimant retains the capacity to perform a wide range of simple, unskilled, light work.
6. Claimant is 5'1" tall and weighs 206 pounds.
7. Claimant is 47 years of age.

8. Claimant's impairments have been medically diagnosed as knee and back pain, bipolar disorder and depression.
9. Claimant has the following symptoms: pain, fatigue, insomnia, shortness of breath, vision problems, crying spells.
10. Claimant completed the 9th grade.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant lives with her husband.
13. Claimant testified that she can perform household chores.
14. Claimant takes the following prescribed medications:
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - d. [REDACTED]
 - e. [REDACTED]
 - f. [REDACTED]
15. Claimant testified to the following physical limitations:
 - i. Sitting: 20 minutes
 - ii. Standing: 20-30 minutes
 - iii. Walking: 1 block
 - iv. Bend/stoop: difficulty
 - v. Lifting: 8-10 lbs.
 - vi. Grip/grasp: no limitations
16. Claimant is currently working 2 jobs doing in home care and cleaning office buildings earning \$ [REDACTED] per month.

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 opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical 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).

- (1) The department shall operate 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 physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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

...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.

Federal regulations require that the department use the 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 individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, 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 disabled 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 the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, claimant at the time of hearing was earning \$ [REDACTED] per month in employment income. This is above the statutory SGA level of \$1,000. Therefore, claimant may be disqualified for MA at this step in the sequential evaluation process.


It is the finding of the undersigned, based upon the evidence presented that the Claimant is not "disabled" at the first step. Claimant would have been found capable of his past relevant work as a security guard even if he had been earning less than the statutory amount for substantial gainful activity.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is not medically disabled for the purposes of the MA-P program.

Accordingly, the Department's decision in the above stated matter is, hereby, **AFFIRMED.**

Aaron
Administrative
for
Department


McClintic
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 03/18/2013

Date Mailed: 03/18/2013

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

AM/kl

cc:

