

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 2013-9927
Issue No.: 2009
Case No.: ██████████
Hearing Date: April 22, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Claimant's request for a hearing. After due notice, a hearing was held on April 22, 2013, at Detroit, Michigan. The Claimant appeared and testified at the hearing. Participants on behalf of the Claimant were Claimant's Authorized Representative, ██████████, and Claimant's mother, ██████████. Participants on behalf of the Department of Human Services (Department) were ██████████, Medical Contact Worker.

ISSUE

Did the Department correctly determine that Claimant is not disabled for purposes of the Medical Assistance (MA or Medicaid) program prior to February 16, 2013?

FINDINGS OF FACT

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

1. On July 1, 2012, Claimant filed an application for MA benefits. The application requested MA retroactive to April 1, 2012.
2. On June 21, 2013, the Department approved partial MA benefits for Claimant beginning February 16, 2013, and denied MA benefits prior to February 16, 2013.
3. On November 8, 2012, Claimant filed a request for an Administrative Hearing.

2. Claimant, who is twenty-seven years old (██████████), has an eleventh-grade education.
3. Claimant last worked in March, 2012 as a vehicle quality inspector. Claimant also performed relevant work as a cashier, stockroom worker, factory worker, and snow-shoveler. Claimant's relevant work history consists exclusively of unskilled, light, medium and heavy exertional work activities.
4. Claimant has a history of Type 1 diabetes with kidney failure, gastroparesis and severe nonproliferative diabetic retinopathy. His disability onset date for diabetes is 1999 (thirteen years old), and for severe nonproliferative diabetic retinopathy, his onset date is April, 2011.
5. Claimant was hospitalized seven times in 2012, and once in 2013, as a result of diabetic gastroparesis. The discharge diagnosis was stable condition.
6. Claimant currently suffers from Type 1 diabetes with kidney failure, gastroparesis and severe nonproliferative diabetic retinopathy.
7. Claimant is severely limited in the basic living skills of sitting, standing, walking, lifting and carrying. Claimant's limitations have lasted or are expected to last twelve months or more.
8. Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the whole record, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

The Administrative Law Judge concludes that Claimant **IS DISABLED** for purposes of the MA program, for the following reason (select ONE):

1. Claimant's physical/mental impairment meets a Federal SSI Listing of Impairment or its equivalent.

State the Listing of Impairment:

2.02 Loss of visual acuity. Remaining vision in the better eye after best correction is 20/200 or less. 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairment 2.02; see also, 20 CFR 404.1520(d).

The following is a five-step examination of Claimant's eligibility for Medicaid. The State of Michigan Department of Human Services is required by the U.S. Code of Federal Regulations (CFR) to use the U.S. Social Security Act Title XVI Supplemental Security Income five-step test, for evaluating applicants for the Michigan Medicaid disability program. 20 CFR 416.905, 404.1505; 416.920; 42 CFR 435.540.

First, the Claimant must not be engaged in substantial gainful activity. In this case, Claimant has not worked since March, 2012. Accordingly, it is found and determined that the first requirement of eligibility is fulfilled, and the Claimant is not engaged in substantial gainful activity. 20 CFR 404.1520(b), 416.920(b); Dept. Exh. 1, p. 5.

Second, in order to be eligible for MA, Claimant's impairment must be sufficiently serious and be at least one year in duration. In this case, Claimant's onset date is 1999. In 1999 Claimant was diagnosed with Type 1 diabetes and began insulin treatment. His diabetes progressed to the point that he is now in kidney dialysis and in April, 2011 he began to have blurry vision which resulted in severe diabetic nonproliferative retinopathy. 20 CFR 404.1520(c), 404.1521; Dept. Exh. 1, pp. 13-14; Clmt. Exh. B.

Based on this information of record, and all of the evidence in this case taken as a whole, it is found and determined that Claimant's impairments are of sufficient severity and duration to fulfill the second eligibility requirement. 20 CFR 404.1520(c), 404.1521, 416.920(c).

Turning now to the third requirement for MA eligibility approval, the factfinder must determine if Claimant's impairment is the same as, or equivalent to, an impairment in the federal Listing of Impairments, found at 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairments. In this case it is found and determined that Claimant's impairment meets or is the equivalent of Listing 2.02, Loss of visual acuity. This Listing is set forth above in full. 20 CFR Chap. III, Appendix 1 to Subpart P of Part 404-Listing of Impairment 2.02; see also, 20 CFR 404.1520(d).

On April 3, 2012, [REDACTED] conducted an eye examination of Claimant. Claimant was referred to Ophthalmology because of bilateral blurry vision and swollen eyelids. Claimant reported he had had this condition for one year. Dept. Exh. 1, pp. 13-14.

At the examination Claimant's visual acuity, without correction, was 20/40-2 in the right eye, and 20/60 in the left eye. ██████████ diagnosed severe diabetic nonproliferative retinopathy. The diagnosis was attested to by ██████████ ██████████ Supervising Staff. *Id.*

Comparing this data with the requirements of Listing 2.02, it does appear that Claimant's better eye is his right eye, and, that the remaining vision in his right eye is less than 20/200. *Id.*; Listing 2.02. Based on this evidence of record, and all of the evidence in this case considered in its entirety, it is found and determined that Claimant has suffered a loss of visual acuity as it is defined in Listing of Impairment 2.02, or, its equivalent.

It is therefore found and determined that Claimant's medical impairment meets, or is equivalent to, the requirements of Listing of Impairment 2.02 Loss of visual acuity. Claimant has therefore established eligibility for Medicaid based on his physical impairment. Listing of Impairment 2.02.

As Claimant is found by the undersigned to be eligible for MA based solely on a physical impairment, it is not necessary to proceed further to the last two eligibility requirements of the five-step Medicare eligibility sequence. *Id.*

In conclusion, based on the Findings of Fact and Conclusions of Law above, the Claimant is found to be

NOT DISABLED **DISABLED**

for purposes of the MA program.

The Department's denial of MA benefits to Claimant is

AFFIRMED **REVERSED**

Considering next whether Claimant is disabled for purposes of SDA, the individual must have a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of MA benefits based upon disability or blindness (or receipt of SSI or RSDI benefits based upon disability or blindness) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM 261. Inasmuch as Claimant has been found disabled for purposes of MA, Claimant must also be found disabled for purposes of SDA benefits, should he apply for them.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record finds that Claimant

DOES NOT MEET MEETS

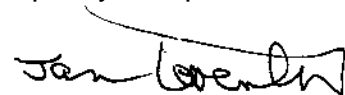
the definition of medically disabled under the Medical Assistance program as of the onset date of loss of visual acuity of April, 2011.

The Department's decision is

AFFIRMED REVERSED

THE DEPARTMENT SHALL BEGIN THE PROCESS OF THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate processing of Claimant's MA application, to determine if all nonmedical eligibility criteria for MA benefits have been met, based on Claimant's onset date of April, 2011.
2. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate processing of MA ongoing and retroactive benefits to Claimant, including any supplements for lost benefits to which Claimant is entitled in accordance with policy.
3. If all nonmedical eligibility criteria for benefits have been met and Claimant is otherwise eligible for benefits, initiate procedures to schedule a redetermination date for review of Claimant's continued eligibility for program benefits in August, 2014.
4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 16, 2013

Date Mailed: July 16, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (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 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

JL/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
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