

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

**IN THE MATTER OF:**

████████████████████  
████████████████████  
████████████████████

Reg No: 201331824  
Issue No: 4031  
██████████ ██████████  
Hearing Date: June 19,  
2013  
Tuscola County DHS-00

**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 June 19, 2013. Claimant appeared along with a witness, ██████████ and both testified. The Department was represented by Renesha Hamilton.

**ISSUE**

Did the Department properly deny Claimant's State Disability Assistance 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 SDA on November 16, 2012.
2. The Medical Review Team denied the application on January 22, 2013.
3. Claimant filed a request for hearing on January 29, 2013, regarding the SDA denial.
4. A telephone hearing was held on June 19, 2013.
5. On May 10, 2013, the State Hearing Review Team denied the application because the medical evidence or record indicates that the Claimant retains the capacity to perform unskilled work.

6. Claimant is 5' 5" tall and weighs 130.
7. Claimant is 56 years of age.
8. Claimant's impairments have been medically diagnosed as rotator cuff injury
9. Claimant has the following symptoms: fatigue and pain.
10. Claimant completed high school.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is working at Wal-Mart, 32 hours per week, earning \$12.95 per hour. Claimant returned to work in March 2013.
13. Claimant lives alone.
14. Claimant testified that she cannot perform some household chores.
15. Claimant takes the following prescribed medications:

- a. Vicodin

### **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 State Disability Assistance (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 policies are found in the Bridges Administrative 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 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, the Claimant is working earning ██████ per month. Claimant returned to work in March 2013 approximately 90 days after her application was filed. Claimant testified at hearing that she was cleared to

work by her physician for at least one month prior to returning to work. This is above the statutory SGA level of [REDACTED]. 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.

**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 SDA program.

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



**Aaron McClintic**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 07/08/2013

Date Mailed: 07/08/2013

**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 affect the substantial rights of the claimant,
  - 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/pw

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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