

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

**IN THE MATTER OF:**

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

Reg. No.: 2013-39306  
Issue No.: 2009  
Case No.: ██████████  
Hearing Date: October 15, 2013  
County: Marquette-00

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge, pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10, upon the Claimant's request for a hearing. After due notice, an in person hearing was held on October 15, 2013, from Marquette, Michigan. Participants on behalf of the Claimant included the Claimant, and a witness ██████████. Participants on behalf of the Department included, Carrie Zeleznik.

**ISSUE**

Did the Department properly deny Claimant's Medical Assistance application?

**FINDINGS OF FACT**

1. Claimant applied for MA-P on December 5, 2012, with a request for retroactive coverage back to November 2012.
2. The Medical Review Team denied the application on March 22, 2013.
3. Claimant filed a request for hearing on April 1, 2013, regarding the MA denial.
4. An in person hearing was held on October 15, 2013.
5. On June 25, 2013, the State Hearing Review Team denied the application because the medical evidence of record indicates that the Claimant's condition is improving, or is expected to improve, within 12 months from the date of onset or from the date of surgery.
6. Claimant is 5' 5 3/4" tall and weighs 168 pounds.
7. Claimant is 44 years of age.
8. Claimant's impairments have been medically diagnosed as neuropathy and ovarian cancer.
9. Claimant has the following symptoms: pain and fatigue.

10. Claimant completed high school and some college.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is working part time earning [REDACTED] per month gross. Claimant returned to work in May 2013
13. Claimant lives with [REDACTED]
14. Claimant testified that she cannot perform some household chores.
15. Claimant takes the following prescribed medications:
  - a. Climara
16. Claimant testified to the following physical limitations:
  - i. Sitting: 10-15 minutes
  - ii. Standing: 10-15 minutes
  - iii. Walking: 4-5 blocks
  - iv. Bend/stoop: difficulty
  - v. Lifting: 15 lbs.
  - vi. Grip/grasp: no limitations
17. Claimant earned [REDACTED] gross employment income in September 2013.
18. Claimant earned [REDACTED] gross employment income in June 2013.
19. Claimant earned [REDACTED] gross employment income in August 2013.
20. Claimant's ovarian cancer was in remission at the time of hearing.

### **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).

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. This is greater than the statutory amount for substantial gainful activity, therefore the Claimant is disqualified at this step in the evaluation. Claimant would not have qualified for MA-P on durational grounds as well because her condition improved within one year of the onset of her condition.

### **DECISION AND ORDER**

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

Accordingly, the Department's decision is hereby **AFFIRMED**.



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

Date Signed: 11/04/2013

Date Mailed: 11/05/2013

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

ATM/pw

cc: [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
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