

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

IN THE MATTER OF:

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Reg. No.: 2013-22502
Issue No.: 2009
Case No.: ██████████
Hearing Date: May 8, 2013
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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. After due notice, a hearing was conducted in Detroit, Michigan on May 8, 2013. Claimant appeared and testified. Claimant's Authorized Hearing Representative, ██████████, of ██████████, Inc., was also present. ██████████, appeared on behalf of the Department of Human Services (Department).

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical records. The evidence was received, reviewed, and forwarded to the State Hearing Review Team (SHRT) for consideration. On July 10, 2013, this office received the SHRT determination which found Claimant not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA-P) benefit program.

FINDINGS OF FACT

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

1. Claimant submitted an application for public assistance seeking MA-P benefits on August 2, 2012.
2. On October 25, 2012, the Medical Review Team (MRT) determined that Claimant was not disabled.
3. The Department notified Claimant of the MRT determination on October 30, 2012.
4. On January 3, 2013 the Department received Claimant's timely written request for hearing.
5. On March 11, 2013, SHRT found Claimant not disabled.
6. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical records. The evidence was received at the hearing, reviewed, and forwarded to SHRT for consideration. On July 10, 2013, this office received the SHRT determination, which found Claimant not disabled.
7. At the time of the hearing, Claimant was 23 years old with a birth date of [REDACTED].
8. Claimant has a high school education and some college education.
9. Claimant is not currently working.
10. Claimant has a work history in child care and secretarial work.
11. Claimant suffers from systemic lupus erythematosus (Lupus), asthma, and obstructive sleep apnea. (Claimant's Exhibit B)
12. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.
13. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, 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

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, 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 Bridges Reference Tables (“RFT”).

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), statutory listings of medical impairments, 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. (SGA) 20 CFR 416.920(b).

In this case, Claimant is not currently working. Claimant testified credibly that she is not currently working and the Department presented no contradictory evidence. Therefore, Claimant is not disqualified for MA at this step in the sequential evaluation process.

Second, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment expected to last twelve months or more (or result in death) which significantly limits an individual’s physical or mental ability to perform basic work activities. The term “basic work activities” means the abilities and aptitudes necessary to do most jobs. Examples of these include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

In this case, medical evidence has clearly established that Claimant has an impairment (or combination of impairments) that has more than a minimal effect on Claimant’s work activities. Claimant was diagnosed with systemic lupus erythematosus (Lupus), asthma, and obstructive sleep apnea. (Claimant’s Exhibit B)

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant’s impairment, or combination of impairments, meets or medically equals the criteria of an impairment listed in Appendix 1 of Subpart P of 20 CFR, Part 404. (20 CFR 416.920 (d), 416.925, and 416.926.) This Administrative Law Judge finds that the Claimant’s medical record supports a finding that Claimant’s impairment(s) is a “listed impairment” or is medically equal to a listed impairment, specifically 14.02A. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A.

In the present case, the Claimant alleges disability due to systemic lupus, fibromyalgia, asthma, and depression and anxiety. (Exhibit 1, p. 8)

Listing 14.00 encompasses Immune Adult Disorders, including systemic lupus erythematosus, which is described in the listing as follows:

14.02 Systemic lupus erythematosus. As described in 14.00D1.

With:

A. Involvement of two or more organs/body systems, with:

1. One of the organs/body systems involved to at least a moderate level of severity; and
2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

D. *How do we document and evaluate the listed autoimmune disorders?*

1. *Systemic lupus erythematosus (14.02).*

a. *General.* Systemic lupus erythematosus (SLE) is a chronic inflammatory disease that can affect any organ or body system. It is frequently, but not always, accompanied by constitutional symptoms or signs (severe fatigue, fever, malaise, involuntary weight loss). Major organ or body system involvement can include: Respiratory (pleuritis, pneumonitis), cardiovascular (endocarditis, myocarditis, pericarditis, vasculitis), renal (glomerulonephritis), hematologic (anemia, leukopenia, thrombocytopenia), skin (photosensitivity), neurologic (seizures), mental (anxiety, fluctuating cognition (“lupus fog”), mood disorders, organic brain syndrome, psychosis), or immune system disorders (inflammatory arthritis). Immunologically, there is an array of circulating serum autoantibodies and pro- and anti-coagulant proteins that may occur in a highly variable pattern.

b. *Documentation of SLE.* Generally, but not always, the medical evidence will show that your SLE satisfies the criteria in the current “Criteria for the Classification of Systemic Lupus Erythematosus” by the American College of Rheumatology found in the most recent edition of the *Primer on the Rheumatic Diseases* published by the Arthritis Foundation.

In the present case, Claimant was diagnosed with SLE in April of 2011. Claimant suffered from bilateral pleural effusions, pericardial effusion, facial rash, Raynaud’s, photosensitivity, dilated esophagus, fevers, weight loss, flu-like symptoms, frontal headaches, iron deficiency, anemia, and obesity exacerbated by steroids. (Exhibit 1, p. 49) On May 24, 2011, Claimant was diagnosed with bilateral pulmonary pneumonia. (Exhibit A, pp. 49, 82) On May 29, 2011, Claimant had increased size of bilateral plural effusions, anemia, pyonatrmin, acute febrile illness and tachycardia (Exhibit A, p. 51) On October 24, 2011, Claimant was diagnosed with asthma exacerbation, acute bronchitis and, lupus. (Exhibit A, p. 25) On October 27, 2011, Claimant was diagnosed with community-acquired pneumonia, SIRS criteria, anemia, chronic. (Exhibit A, p. 29) On January 20, 2012, Claimant was diagnosed with tracheobronchitis, (Exhibit A, p. 22) On February 16, 2012, a medical report indicated that Claimant had an abnormal urine test and an abnormal blood test, showing that Claimant was anemic (Exhibit 1, p. 26) On June 24, 2012, Claimant was diagnosed with acute abdominal pain with fever; possible enteritis. Claimant was reported to have prior renal and pleuro-pericardial involvement. (Exhibit 1, p. 138) On November 29, 2012, Claimant was medically described as having lupus, fibromyalgia, recent pneumonia and anemia of chronic disease as well as sleep apnea, and the description detailed that Claimant had been recently discharged home on oxygen therapy. (Exhibit A, p. 134) A medical impression on November 29, 2012 detailed that Claimant was suffering from chronic recurrent headaches, bilateral hand and feet numbness and tingling, lupus, recent community-acquired pneumonia, steroid side effect with a weight gain, moon face, depression and insomnia. (Exhibit A, p. 136)

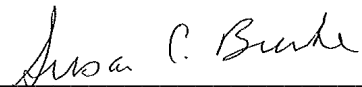
In light of the foregoing, it is found that the Claimant’s impairment meets, or is the medical equivalent thereof, a listed impairment within 14.00, specifically 14.02A.. Accordingly, the Claimant is found disabled at Step 3 with no further analysis required.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant disabled for purposes of the MA-P program.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall initiate processing of the August 2, 2012 application to determine if all other non-medical criteria are met and inform the Claimant of the determination in accordance with Department policy.
3. The Department shall review the Claimant's continued eligibility in September of 2014, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 18, 2013

Date Mailed: July 19, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing 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.

2013-22502/SCB

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, MI 48909-0732

SCB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
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