

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

IN THE MATTER OF:

Reg. No: [REDACTED]
Issue No: 2009, 4031

[REDACTED]

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 and testified. The Department was represented by [REDACTED].

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA-P) Program and State Disability Assistance (SDA) applications?

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 and SDA on [REDACTED].
2. The Medical Review Team denied the application on [REDACTED].
3. Claimant filed a request for hearing on [REDACTED], regarding the MA and SDA denials.
4. A telephone hearing was held on [REDACTED].
5. On [REDACTED] the State Hearing Review Team denied the application because the medical evidence of record indicates that the claimant retains the capacity to perform light work.
6. Claimant is 5' 4" tall and weighs 149 pounds.
7. Claimant is 56 years of age.

- 8. Claimant's impairments have been medically diagnosed as back pain, fractured arm, vision problems, asthma, kidney disease, and anemia.
- 9. Claimant has the following symptoms: pain, fatigue, shortness of breath, migraines, panic attacks, and crying spells.
- 10. Claimant completed a 4 year college degree.
- 11. Claimant is able to read, write, and perform basic math skills.
- 12. Claimant is not working. Claimant last worked in ██████████ as a nurse practitioner.
- 13. Claimant lives alone.
- 14. Claimant testified that she cannot perform some household chores.
- 15. Claimant takes the following prescribed medications:

- a. ██████████
- b. ██████████
- c. ██████████
- d. ██████████
- e. ██████████
- f. ██████████
- g. ██████████
- h. ██████████
- i. ██████████
- j. ██████████
- k. ██████████
- l. ██████████
- m. ██████████
- n. ██████████
- o. ██████████
- p. ██████████

- 16. Claimant testified to the following physical limitations:
 - i. Sitting: 10-15 minutes
 - ii. Standing: 5-10 minutes
 - iii. Walking: 2-3 blocks
 - iv. Bend/stoop: difficulty
 - v. Lifting: 5-10 lbs.
 - vi. Grip/grasp: no limitations

17. Claimant testified to experiencing pain at a high level of 5 on a ten point scale on an every day basis with some pain always present at a low level of 3.
18. Claimant was approved for social security disability benefits with an onset date of ██████████.

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).

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.

Department policy at BEM 260 states that if a claimant has been found eligible for either SSI or RSDI based upon a finding of disability, the person meets the Department's MA disability criteria. No other evidence is required to establish disability. In the present case, the claimant was found by the Social Security Administration to be eligible for RSDI benefits based upon disability, and has presented prima facie evidence of the same. This disability was found by the Social Security Administration to have an onset date of ██████████. Therefore, the Administrative Law Judge finds that the Claimant met the Department's definition of disabled for the purposes of MA-P and SDA effective ██████████.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of ██████████

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application for MA, Retro MA and SDA dated ██████████ if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for ██████████

Aaron
Administrative
for
Department

Aaron McClintic
McClintic
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 02/21/2013

Date Mailed: 02/22/2013

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.

[REDACTED]/AM

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:

[REDACTED]