

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

IN THE MATTER OF:

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

Reg. No.: 2013-46186
Issue No.: 2009
Case No.: ██████████
Hearing Date: October 21, 2013
County: Macomb (20)

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 Warren, Michigan, on October 21, 2013. Claimant appeared and testified. Claimant also requested orally that ██████████ and ██████████ of Disability Network be present and assist him at his hearing. The Department of Human Services (Department) was represented by ██████████, MCW.

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 and Retro-MAP on February 3, 2013.
2. On April 30, 2013, the Medical Review Team (MRT) determined that Claimant was not disabled.
3. The Department notified Claimant of the MA denial on May 8, 2013.
4. On May 17, 2013, the Department received Claimant's timely written request for hearing.

5. On August 5, 2013, SHRT found Claimant not disabled.
6. At the time of the hearing, Claimant was 53 years old with a birth date of [REDACTED]
[REDACTED]
7. Claimant has a high school education and one year of college.
8. Claimant is currently working 30 to 40 hours per week, earning \$9.50 per hour.

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 currently working, and is earning more than \$1,040.00 per month. Claimant testified credibly that he works a minimum of 30 hours per week at \$9.50 per hour as a dishwasher.

20 CFR 416.971 states in part, "The work, without regard to legality, that you have done during any period in which you believe you are disabled may show that you are able to work at the substantial gainful activity level. If you are able to engage in substantial gainful activity, we will find that you are not disabled."

20 CFR 972 (a) states that substantial work activity is "work activity that involves doing significant physical or mental activities." A person who earned more than \$1,040.00 (non-blind) per month in 2013 is considered to be engaged in substantial gainful activity. 20 CFR 416.974.

Claimant is disqualified for MA at this step in the sequential evaluation process, as Claimant is considered to be engaged in substantial gainful activity.

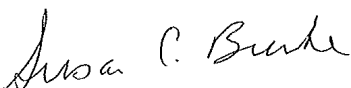
The Administrative Law Judge would note that this finding does not belittle the seriousness of Claimant's disability. The rules only examine whether the claimant is exceeding the substantial gainful activity threshold. This is a bright line rule; even if Claimant were a penny above this limit, a finding of not disabled would be directed.

It is also noted that Claimant would be disqualified at step two, as Claimant's impairment has not prevented work-related activities for a period of 12 months. Step two requires an impairment that can be expected to interfere with work-related activities for a period of 12 months; Claimant's impairment has not interfered with work-related activities for the required time period since filing the application in February of 2013. Therefore, Claimant does not meet durational requirements.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant not disabled for purposes of the MA-P benefit program.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.



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

Date Signed: October 23, 2013

2013-46186/SCB

Date Mailed: October 23, 2013

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

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

SCB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]