

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-50841
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: October 24, 2013
County: Midland

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

Following Claimant's request for a hearing, 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. After due notice, an in-person hearing was held on October 24, 2013, at the Midland County DHS office. Participants on behalf of Claimant included [REDACTED] of Advomas. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED], Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA), retroactive Medical Assistance (Retro/MA) and State Disability Assistance (SDA) benefits?

FINDINGS OF FACT

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

- (1) On January 7, 2013, Claimant applied for MA, Retro-MA and SDA.
- (2) On February 19, 2013, the Medical Review Team denied Claimant's application for MA and Retro-MA indicating Claimant was capable of performing other work. SDA was denied for lack of duration. (Depart Ex. A, pp 360-361).
- (3) On February 25, 2013, the department caseworker sent Claimant notice that MA/Retro-MA and SDA had been denied.

- (4) On May 10, 2013, Claimant filed a request for a hearing to contest the department's negative MA/Retro-MA and SDA actions.
- (5) On August 1, 2013, the State Hearing Review Team again denied Claimant's application indicating that the medical evidence indicates Claimant retains the capacity to perform a wide range of light work. SDA was denied for lack of duration. (Depart Ex. B, pp 1-2).
- (6) On October 11, 2013, Claimant was found disabled by the Social Security Administration with a disability onset date of April, 2013. (Claimant Exhibit).
- (7) Claimant has a history of coronary artery disease with 4 stints, 2 heart attacks with recurrent angina, hypertension, hyperlipidemia, rheumatoid arthritis, degenerative joint disease, acute gout in left knee, acute renal failure, alcoholism, insomnia, psoriasis, history of atrial fibrillation status post ablation, left knee Baker's cyst, hemarthrosis of the left knee and depression.
- (8) In [REDACTED], Claimant presented to the emergency department with acute chest pain. He had a history of heart problems, heart attack, cardiac stents and high blood pressure. He was thoroughly noncompliant with his medications. He had a carotid ultrasound which showed no significant atherosclerosis. He was discharged home. The next day Claimant was admitted to the hospital with chest pain with diaphoresis. During his stay he also complained of ongoing issues with pain in his joints and swelling. Given his history and classic presentation, he was taken to the cardiac catheterization laboratory where he received four stents to his left anterior descending with complete resolution of his symptoms of chest pain. However, he continued to complain of joint pain. He was discharged with a final diagnosis of coronary artery disease, status post four drug-eluting stents to the left anterior descending; hypertension requiring multiple agents; questionable gout of hands and elbow versus rheumatoid arthritis; recurrent night sweats of unclear etiology; degenerative joint disease; history of atrial fibrillation with prior ablation in 2004; dyslipidemia and anxiety. (Depart Ex. A, pp 260-314).
- (9) In [REDACTED], Claimant had two emergency department visits and one hospitalization for chest pain. He was admitted to the hospital in March and had 4 stents placed after having a cardiac catheter for his ongoing chest discomfort. He was admitted to the hospital on [REDACTED] and discharged on [REDACTED] after a negative stress test. His discharged diagnosis was acute renal insufficiency, likely medication induced; chest pain, noncardiac, with history of coronary artery disease; hypertension; history of atrial fibrillation status post ablation; dyslipidemia and anxiety. At the emergency department on [REDACTED], the chest x-ray was negative. He

did take nitro prior to arrival, with no change in the burning in his chest. He was diagnosed with chest discomfort, most likely anxiety related and an exacerbation of his rheumatoid arthritis. (Depart Ex. A, pp 288-315).

- (10) In [REDACTED], Claimant was transported to the hospital by ambulance for chest pain. His past medical history was positive for coronary artery disease with a recent stent placement in March, 2012. He also has a history of gout, rheumatoid arthritis, hypertension, atrial fibrillation in 2004, dyslipidemia and severe anxiety. His EKG showed a sinus tachycardia, unchanged from previous. Chest x-ray was negative and there was no acute process. (Depart Ex. A, pp 316-321).
- (11) In [REDACTED] 013, Claimant was discharged from the hospital after 7 days with a diagnosis of coronary artery disease with recurrent angina, acute gout left knee, acute renal failure, depression, alcoholism, dyslipidemia, insomnia, psoriasis, history of atrial fibrillation status post ablation, left knee Baker's cyst and hemarthrosis of left knee. Claimant had a cardiac catheterization, patent stents in the left anterior descending. It appears that there was high grade disease in the distal left anterior descending/second diagonal branch too small for percutaneous coronary intervention. Medical management was recommended. He also had a left knee aspiration. There were monosodium urate crystals and he was treated for gout. He was participating with physical therapy, but pain and diminished range of motion limited his participation. (Depart Ex. A, pp 322-350).
- (12) Claimant is a 50 year old man whose birthday is [REDACTED]. Claimant is 6'2" tall and weighs 225 lbs. Claimant has a college degree. Claimant is currently working 15-25 hours a week at [REDACTED] an hour.
- (13) Claimant was approved for Social Security disability benefits beginning April, 2013.

CONCLUSIONS OF LAW

As a preliminary matter, this decision is only referencing December, 2012 through March, 2013, based on the RSDI decision granting Claimant disability beginning April, 2013.

The Medical Assistance (MA) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), 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 Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (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 exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI 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.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

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(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has

received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In Claimant's case, the ongoing depression, pain, shortness of breath and other non-exertional symptoms he describes are consistent with the objective medical evidence presented. Consequently, great weight and credibility must be given to his testimony in this regard.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).

5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

Claimant has not been employed in substantial gainful activity since 2007; consequently, the analysis must move to Step 2.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). This second step is a *de minimus* standard. Ruling any ambiguities in Claimant's favor, this Administrative Law Judge (ALJ) finds that Claimant meets both. The analysis continues.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing past relevant work. 20 CFR 416.920(e). It is the finding of this Administrative Law Judge, based upon the medical evidence and objective medical findings, that Claimant cannot return to his past relevant work because the rigors are completely outside the scope of his physical and mental abilities given the medical evidence presented.

In the fifth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing other work. 20 CFR 416.920(f). This determination is based upon Claimant's:

- (1) residual functional capacity defined simply as "what can you still do despite your limitations?" 20 CFR 416.945;
- (2) age, education, and work experience, 20 CFR 416.963-.965; and
- (3) the kinds of work which exist in significant numbers in the national economy which the claimant could perform despite his/her limitations. 20 CFR 416.966.

See *Felton v DSS* 161 Mich. App 690, 696 (1987). Once Claimant reaches Step 5 in the sequential review process, Claimant has already established a *prima facie* case of disability. *Richardson v Secretary of Health and Human Services*, 735 F2d 962 (6th Cir,

1984). At that point, the burden of proof is on the state to prove by substantial evidence that Claimant has the residual functional capacity for substantial gainful activity.

After careful review of Claimant's medical record and the Administrative Law Judge's personal interaction with Claimant at the hearing, this Administrative Law Judge finds that Claimant's exertional and non-exertional impairments render Claimant unable to engage in a full range of even sedentary work activities on a regular and continuing basis. 20 CFR 404, Subpart P. Appendix 11, Section 201.00(h). See Social Security Ruling 83-10; *Wilson v Heckler*, 743 F2d 216 (1986). Based on Claimant's vocational profile (approaching advance age, Claimant is 50, has a college education and a semi-skilled work history), this Administrative Law Judge finds Claimant's MA/Retro-MA benefits are approved using Vocational Rule 201.14 as a guide. Consequently, the department's denial of his January 17, 2013, MA/Retro-MA and SDA application cannot be upheld.

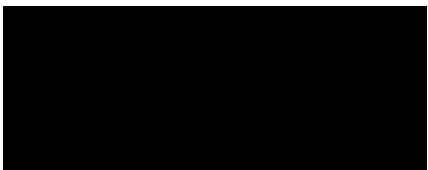
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA and SDA eligibility purposes.

Accordingly, the department's decision is **REVERSED**, and it is Ordered that:

1. The department shall process Claimant's January 17, 2013, MA/Retro-MA and SDA application, and shall award him all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. Departmental review of Claimant's medical condition is not necessary as long as his SSA disability status continues.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed:10/29/2013

Date Mailed:10/30/2013

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

VLA/sw

cc:

