

**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 43661
Issue No.: 2009
Case No.: ██████████
Hearing Date: September 9, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 September 9, 2013 in Detroit, Michigan. Participants on behalf of Claimant included the Claimant. The Claimant's Authorized Hearing Representative, ██████████ also appeared. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

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 October 19, 2012 Claimant applied for MA-P and retro MA-P (July 2012).
2. On March 13, 2012, the Medical Review Team denied Claimant's request.
3. The Department issued a Notice of Case Action dated March 5, 2013 denying the Claimant's MA-P application. Exhibit 1
4. On April 29, 2013 Claimant submitted to the Department a timely hearing request.

5. On July 23, 2013 the State Hearing Review Team (SHRT) found the Claimant not disabled and denied Claimant's request.
6. An Interim Order was issued on September 13, 2013 and additional medical evidence was sent to SHRT on November 7, 2013.
7. On January 8, 2014 the SHRT found the Claimant DISABLED finding that the Claimant met the requirements of Listing 14.08 Immune System Disorders, (Human Immunodeficiency virus (HIV) infection) as of February 2013.
8. Claimant was [REDACTED] years old at the time of the hearing with a birth date of [REDACTED] and is now [REDACTED] years of age.
9. Claimant completed the 12th grade and attended college classes for 1 year.
10. Claimant has employment experience as a housekeeper for hotels. The Claimant last worked in [REDACTED]
11. Claimant alleges physical impairments due to advanced HIV AIDS, Hepatitis C, bronchitis and systemic respiratory syndrome, and extreme fatigue and diabetes with blurred vision and extreme fatigue and parotid mass with brain stent for hydrocephalus with aqueductal stenosis.
12. The Claimant alleges mental disabling impairments including depression.
13. Claimant's limitations have lasted for 12 months or more.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

This Decision will determine whether the Determination by that State Hearing Review Team on January 8, 2014 that the Claimant is disabled as of February 2013 onset date is correct or whether an earlier onset date is supported by the medical evidence. The SHRT Decision is adopted in total except for the determination of the February 2013 disability onset date. The only issue remaining is an analysis of the medical evidence and the determination of onset for disability. The Claimant's application is dated October 19, 2012 with a retro application for the month of July 2012. As it is determined that the Claimant's conditions already meet the Step 1 and Step 2 requirements such that she is determined not disabled for those reasons, only a Step 3 analysis as to

whether the medical evidence demonstrates Listing 14.08 is met will be determined by this Decision.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. 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.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

The third step in the process is to assess whether the impairment or combination of impairments meets a Social Security listing. If the impairment or combination of impairments meets or is the medically equivalent of a listed impairment as set forth in Appendix 1 and meets the durational requirements of 20 CFR 404.1509, the individual is considered disabled. If it does not, the analysis proceeds to the next step.

Here, Claimant has satisfied requirements as set forth in Steps 1, 2 and 3 of the sequential evaluation. The Claimant is not currently engaging in substantial gainful activity and is not employed; thus, is not disqualified at Step 1. The Claimant's medical evidence referenced below also satisfies the requirement of severity of his impairment thus satisfying Step 2 of the required analysis.

Claimant alleges physical impairments due to advanced HIV AIDS, Hepatitis C, bronchitis and systemic respiratory syndrome, and extreme fatigue and diabetes with blurred vision and extreme fatigue and parotid mass with brain stent for hydrocephalus with aqueductal stenosis.

The Claimant alleges mental disabling impairments depression.

A summary of the medical evidence presented follows:

On [REDACTED] the Claimant was admitted to the hospital with fever, blood tinged sputum and sever fatigue. The Claimant was hospitalized for a 3 day stay at which time her CD4 count was 55. The Claimant also received a blood transfusion due to blood loss and anemia. Medical literature generally concludes that a CD 4 count lower that 200 is indicative of AIDS. At the time Claimant was deemed disabled by the SHRT, the CD4 count was 95. Thus it is determined that at the time of her admission in September and October 2012 the Claimant was disabled as she met the equivalent of listing 14.08D viral infections and K. repeated manifestations of HIV infections. .

Thus it is determined that the medical evidence presented supports the finding that the Claimant meets the equivalent requirements of Listing 14.08 and thus is determined disabled at Step 3 with no further analysis required.

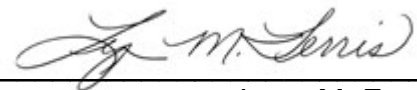
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled not disabled for purposes of the MA-P and/or SDA benefit program.

Accordingly, the Department's determination is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to initiate a review of the application dated October 19, 2012, and any applicable retro application (July 2012), if not done previously, to determine Claimant's non-medical eligibility.
2. The Department shall issue a supplement to the Claimant for SDA benefits if Claimant applied for SDA and was otherwise entitled to receive in accordance with Department Policy.
3. A review of this case shall be set for January 2015.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 4, 2014

Date Mailed: February 4, 2014

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]