

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

IN THE MATTER OF:



Reg. No.: 2014-5602
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 6, 2014
County: Genesee-02

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 May 6, 2014, at the Genesee County Department of Human Services (Department). Claimant, by her father and [REDACTED] of [REDACTED] personally appeared and testified. Participants on behalf of the Department included Assistance Payment Worker [REDACTED].

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 May 21, 2013, Claimant filed an application for MA/Retro-MA benefits alleging disability.
2. On July 10, 2013, the Medical Review Team (MRT) denied Claimant's application for MA/Retro-MA indicating Claimant was capable of performing past relevant work. (Depart Ex. A, pp 5-6).
3. On October 9, 2013, the Department sent Claimant notice that her application for MA/Retro-MA had been denied.
4. On October 9, 2013, Claimant filed a request for a hearing to contest the Department's negative action.

5. On December 17, 2013, the State Hearing Review Team (SHRT) denied MA/Retro-MA finding Claimant retains the capacity to perform light work. (Depart Ex. B).
6. Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.
7. Claimant is a 28 year old man whose birthday is [REDACTED]. Claimant is 5'3" tall and weighs 100 lbs.
8. Claimant does not have an alcohol, drug or nicotine history.
9. Claimant has a driver's license but is unable to drive.
10. Claimant has a high school education.
11. Claimant is not currently working. Claimant last worked in 2011.
12. Claimant alleges disability on the basis of antiphospholipid syndrome, chronic migraines, pulmonary embolisms, five strokes, seizures, lupus, a blood clotting disorder, fibromyalgia, vasculitis, chronic anemia and stage III kidney failure.
13. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.
14. 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

MA-P 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 MA-P 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 Manual (RFT).

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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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).

Claimant's father testified that Claimant had her fifth stroke in the emergency room on [REDACTED]. At which time, she was air lifted to the [REDACTED] and placed in the Intensive Care Unit. On the day of the hearing, Claimant was still in ICU on a ventilator and unable to communicate.

In this case, the Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 11.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's father's testimony and the medical documentation support the finding that Claimant meets the requirements of a listing.

Therefore, Claimant is found to be disabled.

DECISION AND ORDER

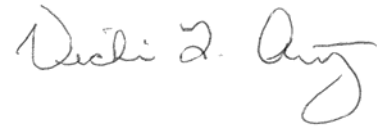
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA eligibility purposes.

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

1. The Department shall process Claimant's May 21, 2013, MA/Retro-MA application, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Claimant's medical condition for improvement in May, 2015, unless her Social Security Administration disability status is approved by that time.

3. The Department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.

It is SO ORDERED.



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

Date Signed: May 13, 2014

Date Mailed: May 14, 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.

2014-5602/VLA

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/las

cc:

