

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25419
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 18, 2014
County: Wayne #31

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 June 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, his [REDACTED] and his authorized hearings representative [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist in [REDACTED], Hearings Facilitator.

ISSUE

Did the Department of Human Services (the Department) properly deny Claimant's application Medical Assistance (MA-P)?

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 June 19, 2013, Claimant filed an application for Medical Assistance, and retroactive Medical Assistance benefits alleging disability.
2. On October 3, 2013, the Medical Review Team denied Claimant's application stating that Claimant could perform other work pursuant to medical vocational rule 201.28.
3. On November 5, 2013, the Department caseworker sent Claimant notice that his application was denied.

4. On February 4, 2014, Claimant filed a request for a hearing to contest the Department's negative action.
5. On March 27, 2014, the State Hearing Review Team again denied Claimant's application.
6. The hearing was held on June 18, 2014. At the hearing, Claimant waived the time periods and requested to submit additional medical information.
7. A [REDACTED] which indicated that Claimant had an ejection fraction 30% with no chest pain, no murmur. Claimant has heart enlargement in the Sirius rhythm.
8. Claimant is a [REDACTED]-year-old [REDACTED] whose [REDACTED]. Claimant is 5'9" tall and weighs 160 pounds. Claimant is a [REDACTED]. Claimant is able to read and write and does have basic math skills.
9. Claimant last worked in [REDACTED].
10. Claimant alleges as disabling impairments: cardiomyopathy, congestive heart failure, heart arrhythmia, fatigue, attention deficit hyperactive disorder, comprehension problems, depression, hypertension and anxiety.

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). Claimants 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) 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 of Human Services (DHS or Department) administers the MA 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).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance 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

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 is 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.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

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 your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

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).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

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 Claimant perform Substantial Gainful Activity (SGA)? If yes, the Claimant is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the Claimant have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the Claimant 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 Claimant'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 Claimant do the former work that he/she performed within the last 15 years? If yes, the Claimant is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the Claimant 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 Claimant is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, Claimant is not engaged in substantial gainful activity and has not worked since [REDACTED] Claimant is not disqualified from receiving disability at Step 1.

The subjective and objective medical evidence on the record indicates that Claimant testified on the record that he lives with his [REDACTED] in a house and he is single with no children under 18 and no income. He receives Food Assistance Program benefits and the Healthy Michigan Plan. He does have a [REDACTED] but he doesn't drive because of his prescriptions. He can drive a couple of blocks to the store only. Claimant does not cook, grocery shop or clean his home. He can exercise for 20 minutes on the treadmill before he becomes fatigued. He watches television 2-3 hours per day. Claimant testified he can stand for 20 minutes at a time and can sit all day long. He can walk half mile. He can squat, shower, dress himself, tie shoes and touch his toes and bend at the waist sometimes. He is in constant pain. His level of pain on a scale from 1 to 10 without medication is an 8 to 9 and with medication was 5 to 6. His back and knees are fine. His hands, arms, legs and feet are fine. The heaviest weight he can carry is 5 to 10 pounds. He does not smoke, drink alcohol or take any drugs. Normally

he sleeps all day long because he is always fatigued. He brushed his teeth, needs and then lays down watches television for talks on the phone. He is mostly in bed. Claimant testified he used to be very athletic and played all sports but is unable to do them. He has to wear a life vest because he has heart arrhythmia.

[REDACTED], indicates the Claimant is normal in all areas of examination except for cardiovascular with ejection fractions 30%. He has no current chest pain. He has heart enlargement. He was 5'10" tall and weighed 163 pounds. His blood pressure was 132/94. The clinical impression that he was stable but he would be disabled until completion of evaluation of further information to determine his condition. He could frequently carry less than 10 pounds, occasionally carry 10 to 20 pounds and never carry 25 pounds or more. He can stand or walk less than two hours in an eight hour workday. He did not require assistive devices for ambulation. He could use his upper extremities for simple grasping, reaching and fine manipulating but not pushing and pulling. He can operate foot or leg controls. He had no mental limitations.

In [REDACTED] indicates that Claimant had mild congestive heart failure, less likely and atypical infection given the [REDACTED]. [REDACTED] indicates that Claimant's ejection fractions estimate to be 30% in the range of 30 – 35%. Moderately to severely decreased LV ejection fraction. Left ventricular cavity size is severely increased. LV wall thickness is normal. Elevated mean left atrial pressure. Restrictive pattern of LV diastolic filling grade three, page 28.

At Step 2, Claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is sufficient objective clinical medical evidence in the record that Claimant suffers a severely restrictive physical or mental impairment. Claimant has reports of pain in multiple areas of his body; he has a severe heart condition and ejection fraction 30% which has not improved from his initial diagnosis. There are laboratory or x-ray findings listed in the file. The clinical impression is that Claimant is [REDACTED]. There is no medical finding that Claimant has any muscle atrophy or trauma, abnormality or injury that is consistent with a deteriorating condition. Claimant has established that he has a severely restrictive physical impairment that has lasted or is expected to last for the duration of at least 12 months or could result in death.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

There is insufficient objective [REDACTED] in the record indicating Claimant suffers severe mental limitations. There is **no** mental residual functional capacity assessment in the record. There is insufficient evidence contained in the file of depression or a cognitive dysfunction that is so severe that it would prevent Claimant from working at any job. Claimant was oriented to time, person and place during the hearing. Claimant was able to answer all of the questions at the hearing and was responsive to the questions. The evidentiary record is insufficient to find that Claimant suffers a severely restrictive mental impairment.

The analysis would proceed to Step 3 where the medical evidence of Claimant's condition does not give rise to a finding that he would meet a statutory listing in the code of federal regulations.

At Step 4, this administrative law judge determines that Claimant cannot return to his past relevant work because of his 30% ejection fraction and his severe restrictions on his activities based upon his fatigue. There is sufficient evidence upon which this Administrative Law Judge could base a finding that Claimant is unable to perform work in which he has engaged in, in the past. Therefore, Claimant is not denied at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

At Step 5, the burden of proof shifts to the Department to establish that Claimant does not have residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

Claimant has submitted sufficient objective medical evidence that he currently lacks the residual functional capacity to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do a full range of light or sedentary tasks if demanded of him. Claimant's activities of daily living do not appear to be very limited, but he is restricted by his fatigue and by his ejection fraction 30% and by the fact that he has to wear a life vest.

The Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance and/or State Disability Assistance. Claimant has established that he is disabled for purposes of medical assistance benefit eligibility as of the application date of [REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant has established that he is disabled for purposes of Medical Assistance benefit eligibility as of the application date of [REDACTED] and for the retroactive months of [REDACTED] if there is a retroactive application.

Accordingly, the Department's decision is **REVERSED** and the Department is **ORDERED** to reinstate Claimant's [REDACTED] Medical Assistance and Retroactive Medical Assistance application and if Claimant is otherwise eligible open an ongoing Medical Assistance case for Claimant.



Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/30/14

Date Mailed: 7/1/14

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 Claimant;
- 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

LYL/tb

cc:

