

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

IN THE MATTER OF:



Reg. No.: 2014 23316
Issue No(s): 2009
Case No.: [REDACTED]
Hearing Date: June 12, 2014
County: Wayne County DHS 35

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, a telephone hearing was held on June 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUES

Whether the Department properly determined that the 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. On July 12, 2013, the Claimant submitted an application for public assistance seeking MA-P and SDA.
2. On August 8, 2013, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit 1)
3. The Department notified the Claimant of the MRT determination on September 5, 2013.
4. On November 8, 2013, the Department received the Claimant's written request for hearing.

5. On March 18, 2014, the State Hearing Review Team (“SHRT”) found the Claimant not disabled. (Exhibit 2)
6. An Interim Order was issued June 13, 2014, so that new medical evidence presented at the hearing could be presented.
7. On June 30, 2014, the State Hearing Review Team REVERSED the Department and found the Claimant disabled as of July 1, 2013.
8. The Claimant alleges physical disabling impairments due to chronic pain throughout her body with pain radiating from her neck down, with limited range of motion, arthritis, spinal stenosis, sleep disorder, hypertension, acid reflux and Irritable bowel syndrome, and transient ischemic attack.
9. The Claimant has alleged mental disabling impairments due to major depressive disorder, bi-polar disorder and learning disorder.
10. At the time of hearing, the Claimant was 55 with an [REDACTED] birth date. . Claimant is 5’1” in height; and weighed 156 pounds.
11. At the time of the application the Claimant was 54 years of age and 11 months.

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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The 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 BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

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.

In this case, the SHRT decision issued June 30, 2014, found the Claimant disabled as of August 2013. The SHRT Decision is adopted in its entirety except the disability onset date is amended to include the month of July, 2013. The Claimant was 54 years of age and 11 months at the time she applied and thus was within one month of achieving being deemed Advanced Age for purposes of determining disability. When a Claimant is very close to the next age category, Social Security policy directs consideration of 416.963(b) which provides:

When we make a finding about your ability to do other work under § 416.920(f)(1), we will use the age categories in paragraphs (c) through (e) of this section. We will use each of the age categories that applies to you during the period for which we must determine if you are disabled. We will not apply the age categories mechanically in a borderline situation. If you are within a few days to a few months of reaching an older age category, and using the older age category would result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluating the overall impact of all the factors of your case.

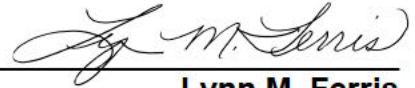
Thus, following and applying this Section, it is determined that the Claimant is disabled as of July 1, 2013.

DECISION AND ORDER

Accordingly, it is ORDERED:

1. The Department's determination that Claimant is not disabled is REVERSED.
2. The Department shall initiate processing of Claimant's application for MA-P dated July 11, 2013 for MA-P to determine if all other non-medical criteria are met pursuant to Department policy based on the SHRT determination, as modified by this Decision to **include a disability onset date of July 1, 2013.**

3. The Department shall notify Claimant of the determination in accordance with Department policy.
4. A review of this case shall be scheduled for July 2015.



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

Date Signed: July 28, 2014

Date Mailed: July 29, 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/tm

cc:

