

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2014-25341
Issue No.: 2009
Case No.: ██████████
Hearing Date: July 10, 2014
County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 July 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

At hearing, Claimant submitted additional medical documentation to be considered by the Administrative Law Judge. These records were reviewed and considered in rendering this Hearing Decision.

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 August 22, 2013, Claimant applied for MA-P and retro MA-P to May 2013.
2. On October 23, 2013, the Medical Review Team denied Claimant's request.
3. On January 31, 2014, Claimant submitted to the Department a request for hearing.

4. The State Hearing Review Team (SHRT) denied Claimant's request.
5. Claimant is 41 years old.
6. Claimant completed education through high school.
7. Claimant has employment experience (last worked February 2011) as a delivery truck driver which required him to stand/walk 50% of the time, sit 50% of the time and lift up to 130 pounds. He also worked in security work which required him to stand/walk the majority of the shift, limited sitting and lifting up to 50 pounds. He also worked as a waiter which required him to stand/walk the majority of the shift, limited sitting and lifting up to 20 pounds.
8. Claimant's limitations have not lasted for 12 months or more.
9. Claimant suffers from stomach pains and severe diarrhea.
10. Claimant has no significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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).

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, Appendix 1, 12.00(C).

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.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first factor to be considered is whether the claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, Claimant is not working. Therefore, Claimant is not disqualified at this step in the evaluation.

The second step to be determined in considering whether a claimant is considered disabled is the severity of the impairment. In order to qualify, the impairment must be considered severe which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, 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).

In this case, Claimant's medical records consisted of the following:

██████████ Claimant was admitted to the hospital. Claimant was treated for viral gastritis and released ██████████. His stool studies were negative. A CT scan of his abdomen and US abdomen was positive for gall bladder thickening. An EGD showed mild gastritis. An HIDA scan revealed a positive result for cystic duct obstruction. An MRCP revealed gall bladder wall thickening. A cholecystectomy was recommended and Claimant refused stating he was doing well.

██████████ Claimant went to the emergency room for abdominal pain. He was noted to appear well-nourished. There was no consolidation or congestion and no evidence of bowel obstruction.

██████████ Claimant went to the emergency room for abdominal pain. Claimant was negative for weight loss. He was discharged with a final diagnosis of acute gastroenteritis.

██████████ Claimant went to the emergency room for back pain. Again, he was negative for weight loss. Claimant was noted to have not taken any medications. Claimant further indicated he had no further complaints. Claimant was discharged with a diagnosis of acute lumbar myofascial strain/sprain.

Claimant testified to the following symptoms and abilities: abdominal pain occurring daily, diarrhea daily about 10 times a day, vomiting daily 2-3 times a day, lost 15 pounds in the last year, no issues standing, sitting or walking, no issues with grip and grasp, he is able to bend or squat, three times out of the week he is unable to do his chores, able to manage personal care, medicine makes him drowsy so he is unable to drive and not able to manage grocery shopping in a month.

This Administrative Law Judge found Claimant to be less than credible regarding the degree and severity of his symptoms and the restrictions on his daily activities. Claimant alleged a greater degree of both than the records submitted would support. Further, given the alleged amount of vomiting and diarrhea Claimant testified to experiencing, he has not demonstrated any significant weight loss. In fact, he reported only losing 15 pounds in the last year. [REDACTED] his medical records indicated he was 5'11" tall and weighed 160 pounds which yields a Body Mass Index (BMI) of 22.33. Claimant was noted [REDACTED] to be 5'11" tall and weighed 160 pounds. Based on the medical records, Claimant's testimony that he has lost 15 pounds in the last year is also found to be not supported.


In this case, Claimant's medical evidence of record fails to support a finding that Claimant has significant physical and mental limitations upon his ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling in a routine work setting. Medical evidence has not clearly established that Claimant has an impairment (or combination of impairments) that has more than a minimal effect on Claimant's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

Therefore, Claimant is not disabled for purposes of MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision is hereby UPHELD.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 30, 2014

Date Mailed: July 30, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

JWO/pf

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