

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-000910
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: July 31, 2014
County: Van Buren

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

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, upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on July 31, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, and a witness [REDACTED]. Claimant's Authorized Representative, [REDACTED], also appeared by phone. Participants on behalf of the Department included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application?

FINDINGS OF FACT

1. Claimant applied for MA-P on November 21, 2013, with a request for retroactive coverage back to August 2013.
2. The Medical Review Team denied the application on January 10, 2014.
3. Claimant filed a request for hearing on April 2, 2014, regarding the MA denial.
4. A telephone hearing was held on July 31, 2014.
5. On May 30, 2014, the State Hearing Review Team denied the application because the medical evidence of record indicates that the Claimant retains the capacity to perform simple and repetitive tasks that avoid greater than concentrated exposure to pulmonary irritants.
6. Claimant is 5' 7" tall and weighs 263 pounds.
7. Claimant is 50 years of age.
8. Claimant's impairments have been medically diagnosed as COPD, arthritis, back pain, congestive heart failure, hypertension, acid reflux, depression, anxiety, bipolar disorder and personality disorder.

9. Claimant has the following symptoms: pain, fatigue, shortness of breath and syncope.
10. Claimant completed 8th grade.
11. Claimant is able to read, write, and perform basic math skills.
12. Claimant is not working. Claimant last worked in 1998 at an auto body shop.
13. Claimant lives with his wife.
14. Claimant testified that he cannot perform some household chores.
15. Claimant takes the following prescribed medications:
 - a. Albuterol
 - b. Baclofen
 - c. Fluoxetine
 - d. Neurontin
 - e. Hydrocodone
 - f. Lorazapen
 - g. Metformin
 - h. Pravastatin
 - i. Bupropion
16. Claimant testified to the following physical limitations:
 - i. Sitting: 30minutes
 - ii. Standing: 20 minutes
 - iii. Walking: 50 yards
 - iv. Bend/stoop: difficulty
 - v. Lifting: 25 lbs.
 - vi. Grip/grasp: no limitations
17. Claimant testified to experiencing pain, at a high level of 8, on an everyday basis with some pain, always present, at a low level of 2-3.
18. Claimant was approved for social security benefits by the social security administration and found to be disabled effective February 28, 2014.

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). Clients 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-P) 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 administers the MA-P 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 uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P 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.

Federal regulations require that the Department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

...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.

To be automatically eligible for MA, an SSI recipient must be a Michigan resident and cooperate with third-party resource liability requirements. BEM 150. Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150. Retro MA coverage is available back to the first day of the third calendar month prior to entitlement for SSI. BAM 115

Accordingly, this Administrative Law Judge concludes that Claimant is disabled for purposes of the MA-P programs as of November 2013. Claimant's onset date of February 2014 allows for eligibility back to November 2013 but not for the retroactive months requested. No information was provided that Claimant was disputing his onset date therefore the determination of the Social Security Administration is final and binding on this appeal.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of November 2013.

Accordingly, the Department's decision is hereby **REVERSED** in part and **AFFIRMED** in part and the Department is ORDERED to:

1. Initiate a review of the application for MA-P dated November 21, 2013, if not done previously, to determine Claimant's non-medical eligibility.
2. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for August 2015.
3. The determination to deny eligibility for the months of August, September and October 2013 is AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/2/2014**

Date Mailed: **9/2/2014**

AM / jaf

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

cc:

