

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-004251
Issue No.: 2009
Case No.: 100341795
Hearing Date: September 25, 2014
County: Branch

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, a telephone hearing was held on September 25, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and his authorized hearings representative [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist acting as a Hearing Facilitator.

ISSUE

Did the Department of Human Services (the Department) properly deny Claimant's application for 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 January 23, 2014, Claimant filed an application for Medical Assistance, and retroactive Medical Assistance benefits alleging disability.
2. On March 13, 2014, the Medical Review Team denied Claimant's application stating that Claimant could perform other work.
3. On March 21, 2014, the Department caseworker sent Claimant notice that his application was denied.

4. On June 9, 2014, Claimant filed a request for a hearing to contest the Department's negative action.
5. On July 10, 2014, the State Hearing Review Team again denied Claimant's application.
6. The hearing was held on September 25, 2014. At the hearing, Claimant waived the time periods and submitted additional medical information.
7. Additional medical information was submitted and considered by this Administrative Law Judge in making this determination.
8. Claimant is a [REDACTED]-year-old man whose [REDACTED]. Claimant is 6'3" tall and weighs 260 pounds. Claimant has a [REDACTED] [REDACTED] Claimant is able to read and write and does have basic math skills.
9. Claimant last worked [REDACTED] inator. Claimant has worked as security for [REDACTED].
10. Claimant alleges as disabling impairments: penile cellulitis, seizures, hidradentitis suppurativa and hypertension.

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 in a house with his [REDACTED] and is divorced with no children under 18 and no income. He receives the healthy Michigan program as of [REDACTED]. Claimant does have a driver's license but does not drive because of his [REDACTED]. His friend takes away needs to go. His girlfriend cooks, grocery shops and cleans the home. He watches television two hours per day. Claimant testified he can stand for 20 minutes at a time it can sit for two hours at a time. Claimant testified he can walk 20 feet and needs help getting dressed. He cannot squat. He needs help tie his

shoes. He's able to bend at the waist and touch his toes. His back and knees are fine. His legs and feet are fine. He has swelling in his and growing. His hands and arms are fine. Heaviest weight he can carry is 10 pounds. He stopped smoking marijuana three months before the hearing. He is at three surgeries August 2014 in the groin area. His level of pain on a scale from 1 to 10 without medication equals a seven and with medication equals a three.

A medical examination report dated [REDACTED] indicates that Claimant's temperature was 97.9°F, heart rate 69, respiratory rate 16 bpm, blood pressure 130/79, pulse oximetry 100% on room air. The HEENT was normal. Extra ocular movements were intact. Pupils were round, equal and reactive to light and accommodation. The neck was supple. The lungs were clear to auscultation bilaterally. His abdomen was soft, non-tender non-distended. He was awake, alert and oriented times three. No focal deficits appreciated, Exhibit A1-A2. A physical examination dated [REDACTED] indicates that Claimant was 75 inches tall and weighed 248 pounds. His heart rate was 90 bpm, blood pressure 150/85, temperature 98.6°F. Claimant was an uncomfortable appearing man who appeared his stated age. He was in no acute distress. He was breathing comfortably on room air. He was alert and oriented times three. He was alert and appropriate. He had grossly edematous penis with glans not visible without retractions penile skin. There are several papillary masses visible on the glans once penile skin was retracted. There was no bleeding or Perle drainage. There are several small draining wounds on the scrotum. There are bilateral ones to the inguinal folds which remain open. There was a well-healed incision and the suprapubic area, Exhibit A22.

The disability determination examination indicates that Claimant can occasionally carry 20 pounds, frequently carry 10 pounds, stand about six hours in an eight hour workday and sit about six hours in an eight hour workday with normal breaks. He's able to push and pull including the operation of hand or foot controlled and unlimited manner. He could frequently climb stairs, never use ropes of scaffolds and frequently perform balancing, stooping, kneeling. Claimant's treating physician indicates in a medical examination report dated [REDACTED] that Claimant has had hidradenitis in the penal/scrotal area, inguinal area and peri-anal area for a long time. Multiple surgeries have been done. He continues to have penal/scrotal swelling. A [REDACTED] medical examination report indicates that Claimant had a scrotal abscess for which he required surgery and drainage. This Administrative Law Judge did consider the nearly 300 pages of medical reports contained in the file when making this determination.

Social Security Listing 8.06 indicates that a person meets a listing when he or she has extensive skin lesions. Extensive skin lesions are those that involve multiple body sites or critical body areas, and result in a very serious limitation. Examples of extensive skin lesions that result in a very serious limitation include but are not limited to: Skin lesions on the soles of feet, the perineum, or both inguinal areas that very seriously limit the ability to ambulate.

This Administrative Law Judge finds that Claimant meets Social Security listing 8.06 indicating that a person meets a listing when he has skin lesions in apparent a.m. or both inguinal areas that very seriously limit his ability to ambulate. Therefore, Claimant meets the definition of disabled for purposes of Medical Assistance benefit eligibility for the [REDACTED] application and for the retroactive months of October, November and [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant has established by the necessary competent, material and substantial evidence on the record that he is disabled for the purposes of Medical Assistance benefit eligibility for the [REDACTED] application and for the retroactive months of [REDACTED] and [REDACTED] based upon meeting listing 8.06 of the Social Security Administration regulations.

Accordingly, the Department's decision is reversed. The Department is ordered to reinstate Claimant's Medical Assistance application of [REDACTED]. Claimant is otherwise eligible the Department shall open an ongoing medical assistance case I Claimant's behalf for the month of [REDACTED] and [REDACTED] from [REDACTED].

A medical review is ordered to begin to [REDACTED]. The Department should check to see if Claimant is in current payment status or not. If the Claimant is in current payment status at the medical review no further action will be necessary. However, if the Claimant is not in current payment status at the medical review, the Department is to obtain updated application forms ([REDACTED]) and obtain updated medical records.



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

Date Signed: 10/6/14

Date Mailed: 10/7/14

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:

