

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

IN THE MATTER OF:

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

Reg. No.: 14-005939
Issue No.: 2009
Case No.: ██████████
Hearing Date: September 8, 2014
County: Oakland (04-North Saginaw)

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 September 8, 2014, from Pontiac, Michigan. Participants on behalf of Claimant included the Claimant ██████████
Participants on behalf of the Department of Human Services (Department) included ██████████

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 December 6, 2013, Claimant applied for MA-P and retro MA-P to October 2013.
2. On January 21, 2014, the Medical Review Team denied Claimant's request.
3. On April 1, 2014, Claimant submitted to the Department a request for hearing. Claimant's representative demonstrated via a fax confirmation that the hearing request was filed on April 1, 2014.
4. The State Hearing Review Team (SHRT) denied Claimant's request.
5. Claimant is 54 years old.

6. Claimant completed education through high school and some college.
7. Claimant has employment experience (last worked 2010) as a direct care worker which required her to stand/walk the majority of the shift and lift frequently over 50 pounds.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from chronic obstructive pulmonary disease, asthma, hypertension and congestive heart failure.
10. Claimant has 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 Claimant's treatment records include the following:

- [REDACTED] the Claimant was admitted for chest pain and breathing problems. She was discharged [REDACTED] after receiving treatment for COPD exacerbation with atypical chest pains. She had an ejection fraction of 71%.
- [REDACTED] Claimant was admitted to hospital for difficulty breathing. She was discharged on [REDACTED]
- [REDACTED] Claimant was admitted to the hospital for chest pain and breathing problems. She was treated and released on [REDACTED]
- [REDACTED] Claimant was treated in the emergency room for a cough.
- [REDACTED] Claimant was seen in the emergency room for chest pain and shortness of breath. She was treated and released with a diagnosis of COPD and asthma.
- [REDACTED] Claimant was admitted for chest pain and released [REDACTED]
- [REDACTED] Claimant was in the emergency room for chest pain and cough. She was treated and released.
- [REDACTED] Claimant was admitted to the hospital for chest pain. She was released [REDACTED]

Claimant testified to the following symptoms and abilities: shortness of breath, short distances cause difficulty with breathing, every little task causes her to become short of breath, swelling in the right knee, difficult with walking, right arm pain, she is right handed, lower back pain, poor grip in right hand, not able to bend or squat, not able to manage her hair due to her limitations on her right arm, can walk a few feet, no issues with sitting, can stand less than 5 minutes, needs help with household chores, struggles with personal care, able to manage grocery shopping with assistance, has had issues with passing out, she gets headaches from some of the medications and dizzy spells.


In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet listing 3.03 B or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. Claimant's testimony and the medical documentation support the finding that Claimant meets the requirements of a listing.

Therefore, Claimant is found to be disabled.

DECISION AND ORDER

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

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated December 6, 2013, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for November 2015.



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

Date Signed: **10/20/2014**

Date Mailed: **10/20/2014**

JWO / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]