

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014 28815
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 25, 2014
County: Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a three way telephone hearing was held on June 25, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED], of L&S Associates, the Claimant's Authorized Hearing Representative (AHR), also appeared. A witness, [REDACTED] also appeared for the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist

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 October 10, 2013, Claimant applied for MA-P and retro MA-P to September 2013.
2. On November 15, 2013, the Medical Review Team denied Claimant's request.
3. On November 19, 2013, the Department sent the Claimant a Notice of Case Action. The Claimant's AHR submitted to the Department a timely request for hearing on February 7, 2014.

4. The State Hearing Review Team (SHRT) denied Claimant's request on April 11, 2014.
5. On September 16, 2014, an Interim Order was entered and the new evidence was sent to the SHRT. On September 19, 2014, the SHRT denied the Claimant's request on September 19, 2014.
6. Claimant is [REDACTED] years old with an [REDACTED] birth date.
7. Claimant completed education through high school. At the time of the hearing, Claimant was 5'8" and weighed 160 pounds.
8. Claimant has employment experience (last worked 2012) as a cashier for a pharmacy, and stocking shelves, working in a warehouse moving heavy boxes, working as a furniture mover, and as a carpet cleaner and in a kitchen preparing food.
9. The Claimant has alleged physical disabling impairments including shortness of breath, lumbar pain and muscle spasm, problems with her balance, and heart problems with congestive heart failure and severe hypertension.
10. The Claimant has alleged emotional impairments including anxiety attacks.
11. Claimant's limitations have lasted for 12 months or more.
12. Claimant has significant limitations on physical activities.

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.

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 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. 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.

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).

Claimant testified credibly to the following symptoms and abilities: can stand 30-60 minutes before increased lower back pain, can walk a half-block due to shortness of breath, can sit for two hours, needs help with housework and cannot lift the laundry, has difficulty climbing stairs due to shortness of breath, can carry about 2 pounds, and needs help with grocery shopping and uses a cart for stability.

The Claimant was admitted to the hospital in October 2013, at which time an echocardiogram noted severe left ventricular systolic function severely reduced, with an ejection fraction of 25 -30%, including a moderate amount of pulmonic regurgitation.

The exam also notes that based upon Doppler measurements, left ventricular relaxation is associated with Grade III or IV, or moderate diastolic dysfunction.

In this case, this Administrative Law Judge finds that Claimant may be considered presently disabled at the third step. Claimant appears to meet Listing for Chronic Heart Failure Listing 4.02 A and 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 for purposes of MA.

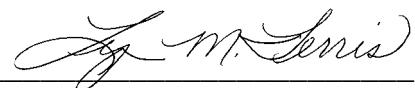
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of May 2012.

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re-register and process the Claimant's application for MA-P dated October 10, 2013 and retro application for September 2013, and determine Claimant's non-medical eligibility, if it has not already done so.
2. The matter shall be reviewed in October 2015.



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

Date Signed: October 20, 2014

Date Mailed: October 20, 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

LMF/tm

cc:

