

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

IN THE MATTER OF:



Reg. No.: 201417070
Issue No(s): 2009
Case No.: [REDACTED]
Hearing Date: May 29, 2014
County: Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 May 29, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself and his authorized hearing representative L & S Associates. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED].

ISSUES

Did the Department of Human Services properly determine that Claimant is not disabled and deny Claimant's June 5, 2013 application for Medical Assistance (MA) based on disability and retroactive Medical Assistance (MA) based on disability?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was born on [REDACTED]. Claimant is 6' 1" tall and weighs approximately 229 pounds. Claimant's formal education consists of 12 years of school.
2. Claimant reports relevant work history in cooking as well as industrial materials handling and delivery. Claimant reports last working in 2012.
3. Claimant asserts disability based on dizziness, fatigue, hostility and acute coronary syndrome.

4. On June 5, 2013, Claimant applied for Medical Assistance (MA) based on disability and retroactive Medical Assistance (MA) based on disability.
5. On August 28, 2013, the Department of Human Services Medical Review Team determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) based on disability.
6. On September 5, 2013, Claimant was sent notice of the Department's determination.
7. On December 3, 2013, Claimant submitted a request for hearing.
8. On February 19, 2014, the State Hearing Review Team determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) based on disability.
9. At the hearing Claimant waived any violation of statutory or policy time standards. Additional medical evidence was received.
10. On July 29, 2014, the State Hearing Review Team again determined that Claimant was not disabled in accordance with the standards for Medical Assistance (MA) based on disability.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Disability determinations done by the State of Michigan for Medical Assistance (MA) based on disability use the Social Security Administration standards found in United States Code of Federal Regulations (CFR) at Title 20, Part 416. The law defines disability 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 at least 12 months. To meet this definition, you must have severe impairments that make you unable to do your past relevant work or any other substantial gainful work that exists in the national economy.

In accordance with the Federal Regulations an initial disability determination is a sequential evaluation process. The evaluation consists of five steps that are followed in a set order.

STEP 1

At this step a determination is made on whether Claimant is engaging in substantial gainful activity (20 CFR 416.920(b)). If you are performing activities for pay or profit, we will use 20 CFR 416.971 through 416.975 to evaluate the activities to determine if they are substantial gainful activity. Substantial gainful activity is defined as work activity: that is both substantial and gainful; and involves doing significant physical or mental activities. Gainful work activity is work activity that you do for pay or profit (20 CFR 416.972). If you are engaged in substantial gainful activity, you are not disabled regardless of how severe your physical or mental impairments are and regardless of your age, education, and work experience.

Based on the evidence in the record and Claimant's testimony, Claimant has not received earnings as an employee since the date of application. Therefore, Claimant is not engaged in substantial gainful activity. Claimant is not found ineligible and the analysis proceeds to step two.

STEP 2

At the second step it is determined whether you have a severe physical or mental impairment that meets the duration requirement or a combination of impairments that is severe and meets the duration requirement (20CFR 416.920). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include:

Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;

Capacities for seeing, hearing, and speaking;

Understanding, carrying out, and remembering simple instructions;

Use of judgment;

Responding appropriately to supervision, co-workers and usual work situations;
and

Dealing with changes in a routine work setting.

An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities (20 CFR 416.921).

In addition to the limiting effect of the impairments they must also meet durational requirements, 90 days for State Disability Assistance (SDA) and 12 months for Medical

Assistance (MA) based on disability. If we determine that your impairments are not severe, you are not disabled.

Claimant asserts disability based on dizziness, fatigue, hostility and acute coronary syndrome. What follows is a synopsis of all relevant evidence in the record from medical sources presented in chronological order.

There is a March 18, 2013, consultation report done by E. Zimmerman, DO, (pages 16 & 17). Claimant's chief complaint was recurrent spells of losing consciousness. After a review of Claimant's history and examination, the Doctor felt the spells were suspicious for vertebrobasilar transient ischemic attacks versus seizure or migraine variant.

There is a March 25, 2013, history and physical examination report from McLaren Regional Medical Center (pages 42 & 43). On examination Dr. Benkenshtadt found Claimant had a normal EKG, no acute distress, fluent speech, and all other signs normal. The Doctor referred to a March 19, 2013, MRI of the brain which showed no evidence of acute infarction, intracranial hemorrhage, or enhancing mass or lesion. The Doctor also referred to a March 24, 2013, CT of the head which was negative and a chest X-ray that was negative. The Doctor recorded an impression of status post questionable syncopal episode with recent all workup performed which came back negative.

There is documentation from a May 6-10, 2013, hospital admission and stay. (Pages 50-67) There is significant duplication in this documentation. Claimant reported he lost consciousness, fell and hurt his neck. At discharge, Dr. Trager reported that Claimant had no overt signs of a contusion from the reported fall. The Doctor also reported that Claimant's neck pain appeared to be myofascial.

There is documentation from a November 7 - 9, 2013, hospital admission and stay. (Pages A1-A7). There is no evidence of laboratory testing or medical imaging to support the symptoms Claimant alleged.

There is documentation from a January 12 – 14, 2014, hospital admission and stay. (Pages A8-A9). There is no evidence of laboratory testing or medical imaging to support the symptoms Claimant alleged.

There is documentation from a February 16 – 17, 2014, hospital admission and stay. (Pages A1-A4). There is no evidence of laboratory testing or medical imaging to support the symptoms Claimant alleged.

There is documentation from a March 13 – 16, 2014, hospital admission and stay. (Pages A53 – A54). There is no evidence of laboratory testing or medical imaging to support the symptoms Claimant alleged.

There is documentation from an April 3 – 5, 2014, hospital admission and stay. (Pages A55-A57). There is no evidence of laboratory testing or medical imaging to support the symptoms Claimant alleged.

There is documentation from an April 21 – 26, 2014, hospital admission and stay. (Pages B1-B10). The documentation includes an imaging report by Dr. Chang, of a CT Brain scan which showed age related changes of the brain with no acute process and no changes to suggest evolving ischemic infarct, intracranial hemorrhage or mass. There is also an imaging report by Dr. George of a chest CR. The Doctor found no acute cardiopulmonary process. On discharge Claimant was once again negative for any neurological or cardiac determination for Claimant's reported fainting.

20 CFR 416.927

How we weigh medical opinions. Regardless of its source, we will evaluate every medical opinion we receive. Unless we give a treating source's opinion controlling weight under paragraph (d)(2) of this section, we consider all of the following factors in deciding the weight we give to any medical opinion.

Examining relationship. Generally, we give more weight to the opinion of a source who has examined you than to the opinion of a source who has not examined you.

Treatment relationship. Generally, we give more weight to opinions from your treating sources, since these sources are likely to be the medical professionals most able to provide a detailed, longitudinal picture of your medical impairment(s) and may bring a unique perspective to the medical evidence that cannot be obtained from the objective medical findings alone or from reports of individual examinations, such as consultative examinations or brief hospitalizations.

Supportability. The more a medical source presents relevant evidence to support an opinion, particularly medical signs and laboratory findings, the more weight we will give that opinion. The better an explanation a source provides for an opinion, the more weight we will give that opinion. Furthermore, because nonexamining sources have no examining or treating relationship with you, the weight we will give their opinions will depend on the degree to which they provide supporting explanations for their opinions.

Consistency. Generally, the more consistent an opinion is with the record as a whole, the more weight we will give to that opinion.

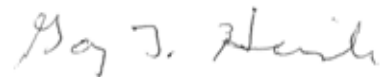
Specialization. We generally give more weight to the opinion of a specialist about medical issues related to his or her area of specialty than to the opinion of a source who is not a specialist.

The objective medical evidence in this record shows that Claimant went to the hospital complaining of chest pain and reporting that he fainted, on a regular basis. However, the numerous medical evaluations done have not produced any laboratory test results or medical imaging which support the symptoms and events Claimant continually alleges. Neither is there any statement from a medical professional that Claimant has any physical or mental limitations of his ability to perform work activities. The objective medical evidence in this record does not establish that claimant has any medically determined impairment that would prevent employment. Therefore, claimant is disqualified from receiving disability at this step.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined that Claimant is not disabled and denied Claimant's June 5, 2013 application for Medical Assistance (MA) based on disability and retroactive Medical Assistance (MA) based on disability.

The Department's action is **UPHELD**.



Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 24, 2014

Date Mailed: October 24, 2014

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:

