

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

IN THE MATTER OF:

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Reg. No.: 14-010340
Issue No.: 4009
Case No.: ██████████
Hearing Date: October 15, 2014
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 15, 2014, from Inkster, Michigan. Participants on behalf of Claimant included ██████████, supervisor at ██████████ ██████████ ██████████; Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA-P) benefit program?

FINDINGS OF FACT

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

1. On January 31, 2014, Claimant submitted an application for public assistance seeking MA-P benefits with retroactive coverage to December 2013.
2. On June 9, 2014, the Medical Review Team (MRT) found Claimant not disabled.
3. On June 24, 2014, the Department sent Claimant and the AHR a Benefit Notice denying the application based on MRT's finding of no disability.
4. On July 23, 2014, the ██████████ sent Claimant a letter advising him that he met the disability requirement on September 1, 2006, based on his attainment of age 55, and prior to this date the medical evidence supported

a finding that he would have been able to perform work requiring him to lift up to 20 pounds occasionally and sit, stand or walk for at least 6 hours in an 8-hour workday.

5. On July 24, 2014, the RRB sent Claimant a letter advising him that he was entitled to Medicare Part A coverage effective February 1, 2009, and Part B coverage effective September 1, 2014, but, if he paid the full amount of premiums due for February 1, 2009 to August 1, 2014, he would receive Part B coverage with a February 1, 2009 effective date.
6. On August 8, 2014, the Department received Claimant's timely written request for hearing concerning the denial of MA-P coverage.
7. Claimant alleged physical disabling impairment(s) due to osteoarthritis, artificial knee, back pain, and hypertension.

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.

MA-P benefits are available to disabled individuals. BEM 105 (January 2014), p. 1; BEM 260 (July 2014); BEM 261 (July 2013), p. 1. Under Department policy, a person who is not deceased meets the definition of disabled for MA purposes if the person (i) receives Supplemental Security Income (SSI), (ii) is approved by the Social Security Administration (SSA) for Retirement Survivors and Disability Insurance (RSDI) based on a disability; or (iii) is found disabled by the Medical Review Team (MRT), provided that (a) the client is **not** eligible for RSDI based on disability or blindness and (b) SSA's determination that the client is **not** disabled or blind for SSI purposes is **not final**. BEM 260 (July 2014), pp. 1-3, 7; BEM 150 (January 2014), p. 1.

In this case, the AHR argues that Claimant is disabled for MA purposes because he was found disabled by the RRB, relying on letters from the RRB to Claimant dated July 23, 2014 and July 24, 2014, indicating that RRB found him found disabled as of September 2006 and eligible for Medicare.

It is acknowledged that the RRB and SSA both use the same definition of total disability. Social Security Bulletin, Vol. 68, no. 2. Further, disability benefits provided by the RRB are designed to take the place of Social Security benefits. *Id.* However, Department policy specifically defines disability with reference to MA-P eligibility to be dependent on a client's eligibility for SSI, eligibility for disability-based RSDI or an MRT finding of disability. In contrast to the MA-P definition in policy for disability, the FAP definition of disability in Department policy expressly includes individuals who receive RRB benefits and are either eligible for Medicare or meet the Social Security disability criteria. BEM 550 (February 2014), p. 2. Because Department policy for FAP expressly includes disability to include RRB recipients, the fact that RRB eligibility is excluded from the definition of disability for MA-P reinforces the conclusion that the RRB's finding of disability is not a valid basis for MA-P eligibility.

Because Claimant cannot rely on the RRB finding of disability and there is no evidence of his receipt of SSI benefits or RSDI disability-based benefits, in order to be eligible for MA-P benefits, Claimant must satisfy the requirements to be disabled for SSI purpose as defined in Title XVI of the Social Security Act. 20 CFR 416.901. A 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).

To determine whether an individual is disabled, federal regulations require the trier of fact to apply a five-step sequential evaluation to consider (1) whether the individual is engaged in substantial gainful activity (SGA); (2) whether the individual's impairment is severe; (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) whether the individual has the residual functional capacity to perform past relevant work; and (5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered as **not disabled**, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, the Claimant did not appear for the hearing at the AHR's instruction and therefore could not testify regarding whether he was engaged in SGA. In the absence of any evidence concerning his work status, Claimant has failed to establish that he had not engaged in SGA during the period for which assistance might be available. Therefore, Claimant is ineligible under step 1 and the disability analysis ends with a finding that Claimant is **not disabled**.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant **not disabled** for purposes of the MA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/3/2014**

Date Mailed: **11/3/2014**

ACE / tlf

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]
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