

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-011900  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: October 29, 2014  
County: Lapeer

**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, an in-person hearing was held on October 29, 2014, from Lapeer, Michigan. Participants on behalf of Claimant included Claimant, his mother [REDACTED] and Claimant's authorized hearings representative [REDACTED] of [REDACTED]. Participants on behalf of the Department of Human Services (Department) included, [REDACTED], Eligibility Specialist acting as Hearings 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 February 10, 2014, Claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits alleging disability.
2. On June 11, 2014, the Medical Review Team denied Claimant's application indicating that Claimant's impairments lacked duration.
3. On June 18, 2014, the Department caseworker sent Claimant notice that his application was denied.
4. On September 9, 2014, Claimant filed a request for a hearing to contest the Department's negative action.

5. On October 29, 2014, the hearing was held. At the hearing, Claimant's authorized hearings representative waived the time periods and submitted additional medical information.
6. Claimant is a 50-year-old man whose date of birth is [REDACTED]. Claimant is 6 feet tall and weighed hundred 95 pounds. Claimant is a high school graduate. His able to read and write and does have basic math skills.
7. Claimant last worked September 2013 as a project planner. Claimant has also worked as a buyer at a plastics company.
8. Claimant alleges as disabling impairments: coronary artery disease, neck injury, peripheral neuropathy, diabetes mellitus two, painful arthritis nodules of the wrist and elbows, myocardial infarction February 2014, hypertension, MERSA infection, seven surgeries in the right hand, three ruptured discs, anterior cervical fusion, blindness in the left eye, diabetic retinopathy, left shoulder pain, dizziness, generalized weakness and balance issues.

### **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 does 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 are ineligible for MA.  
If no, MA is approved. 20 CFR 416.920(f).

This Administrative Law Judge did consider the entire record in making this decision.

At Step 1, Claimant is not engaged in substantial gainful activity and has not worked since **September 2013**. 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 with his parents since January 2014. He is divorced with no children under 18 and no income. He receives the Healthy Michigan Plan. Claimant does have a driver's license but his mother takes him where he needs to go because he is restricted for medical reasons from driving. Claimant cooks once every two weeks and makes things like canned goods or sandwiches. Claimant does not grocery shop, clean the home or do any outside work. He watches television 5 to 6 hours per day and use the computer 10 minutes per day. Claimant testified he can stand for 30 minutes at a time and can sit for 30 minutes at a time. He can walk 2/10 of a mile. Claimant testified he is able to shower but can only wear sweats. He cannot button or zip his clothing. Claimant cannot tie shoes. Claimant is right-handed and has weakness and numbness as well as neuropathy in his hands, arms legs and feet. Heaviest weight he can carry is 3 pounds. He must wear his neck brace for at least six more weeks. He cannot go up and down steps because his fall risk. He does not retain bilateral manual hand dexterity. He had a quadruple bypass surgery.

A medical examination report dated [REDACTED] indicates that Claimant was diagnosed with gait ataxia, heart disease, coronary artery bypass times four in [REDACTED], rheumatoid arthritis, glaucoma with vision loss, C-5 through C8 vertebral degenerative disc radiculopathy, severe, and diabetes mellitus type II. He was 6 feet tall and weighed 206 pounds. His blood pressure was 117/68. He was frail and weak appearing. He has no vision of the left eye. His light perception is intact, Claimant Exhibit #1. The clinical impression is that Claimant is deteriorating. He can never left anyway. He can use his right arm and hand for simple grasping, reaching and fine manipulating but neither for pushing and pulling. He has no mental limitations, Claimant Exhibit, Page 2. Claimant has a class II functional capacity for patients with disease of the heart which indicates that patients with cardiac disease resulting in slight limitation of physical activity. They're comfortable at rest. Ordinary physical activity results in fatigue, palpitation, dyspnea or angina pain. His Therapeutic Classification III which indicates objective evidence of moderately severe cardiovascular disease. Marked limitation in activity due to symptoms, even during less than ordinary activity. Comfortable only at rest, Claimant Exhibit, Page 5.

An [REDACTED] cardiology report indicates that Claimant has coronary atherosclerosis of unspecified type. The condition is stable. No angina symptoms. Claimant will be in continuous current therapy. He will be monitored closely. He was assessed a low-sodium diet. He was assessed a low-fat diet. Cardiac rehab when cleared by neurosurgeon. Aggressive diabetes management was discussed. He also had benign essential hypertension and ischemic cardiomyopathy. There were no congestive heart failure manifestations, Claimant Exhibit, Page 7.

An [REDACTED] carotid duplex indicates the Claimant had 39% degree stenosis identified involved in the left internal carotid artery. There was normal imaging of the right carotid artery, Claimant Exhibit, Page 9. A [REDACTED] myocardial nuclear imaging report indicates that Claimant has significantly enlarged left ventricle with moderately severe diffuse left ventricular hypo kinesis, ejection fraction 38%, Claimant Exhibit. Claimant was admitted to the hospital [REDACTED] with cervical myelopathy, hypertension, cardiomyopathy, congestive heart failure, and wrap feet of both hands due to cervical stenosis, diabetes mellitus type II rheumatoid arthritis, Claimant Exhibit, Page 38.

A physical examination dated [REDACTED] indicates that Claimant was afebrile with stable vital signs and in no acute distress. His strength in the bilateral lower extremities 5/5 throughout proximately and distantly. Strength in the right upper extremities 5/5 throughout except for hand in transit, which are 4+/5. Strength in the left upper extremities 4+/5 throughout except for deltoids which are 5/5. The hand in transit on the left side of 4/5. The patient had a normal stance. Claimant's heel, toe and tandem walking were performed without difficulty. Reflexes were 2+ bilaterally. No evidence of ankle clonus or Hoffman sign. The spine was normal in curvature in alignment without evidence of scoliosis kyphosis and forward bending over and standing upright. Sagittal and Cornel global spinal alignment are within normal limits.

There is no tenderness to palpation over the cervical, thoracic and lumbar spine, Claimant exhibit page 34. Claimant was assessed with symptomatic cervical spine disc disease with associated left upper extremity radiculopathy and neck pain. The cervical MRI revealed disc protrusions, most significant at C-5 – C6 and C6 – C7 with associated cord compression, page 35. On [REDACTED] Claimant had two-level discectomy is for the compression of spinal cord and existing nerve roots, page 44. Claimant had a left heart catheterization [REDACTED] which revealed the ejection fraction was 45 to 50%, page 35. [REDACTED], Claimant had a coronary artery bypass grafting times four, page 42.

At Step 2, Claimant has the burden of proof of establishing that he has a severely restrictive physical or mental impairment that has lasted or is expected to last for the duration of at least 12 months. There is sufficient objective clinical medical evidence in the record that Claimant suffers a severely restrictive physical or mental impairment.

If Claimant was not denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of Claimant's condition does not give rise to a finding that he would meet a statutory listing in the code of federal regulations.

This Administrative Law Judge determined that Claimant is not disqualified from receiving disability at step 4 based upon the fact that he cannot currently perform his prior relevant work due to his severe medical condition.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

At Step 5, the burden of proof shifts to the Department to establish that Claimant does not have residual functional capacity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if

walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

Claimant has submitted sufficient objective medical evidence that he lacks the residual functional capacity to perform some other less strenuous tasks than in his prior employment or that he is physically unable to do light or sedentary tasks if demanded of him. The evidence in the file indicates that Claimant does not currently retain bilateral manual hand dexterity. He has had a quadruple bypass surgery. He is blind in the left eye. He does have diabetes mellitus type II and diabetic retinopathy. He currently has to wear a neck brace because of the surgical recovery from neck surgery. He has ischemic cardiomyopathy.

The Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance based upon disability.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant has established that he is disabled for purposes of medical assistance and retroactive medical assistance benefit eligibility.

Accordingly, the Department's decision is REVERSED. The Department is ORDERED to reinstate Claimant's February 10, 2014 Medical Assistance benefit application and if Claimant is otherwise eligible, the Department is ORDERED to open an ongoing medical assistance and retroactive medical assistance case from January 2014 forward.

A medical review should be scheduled for November 2015. 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 (DHS49) and obtain updated medical records.



It is ORDERED that the Department shall review this case in one year from the date of this Decision and Order.



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

Date Signed: 11/06/2014

Date Mailed: 11/07/2014

**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 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 48909-8139

LYL/tb

cc:

