

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009917
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: October 09, 2014
County: KENT-DISTRICT 1 (FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Susanne Harris

HEARING DECISION

Following the 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 October 9, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED] and Assistance Payments Supervisor, [REDACTED].

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the State Disability Assistance (SDA) benefit programs?

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 June 9, 2014, the Claimant applied for SDA.
2. On July 28, 2014, the Medical Review Team denied the Claimant's request.
3. On August 11, 2014, the Claimant submitted to the Department a request for hearing.
4. On August 16, 2014, the Medical Review Team approved the Claimant for SDA benefits.
5. The Claimant is [REDACTED] years old.
6. The Claimant completed [REDACTED].

7. The Claimant has employment experience [REDACTED]
8. The Claimant suffers from anxiety, depression, back pain and hip pain due to a metal hip replacement that has since been recalled. The Claimant has one leg that is shorter by 1 ½ inches than the other.
9. The Claimant's limitations have lasted for 12 months or more.
10. The Claimant has significant limitations on concentration, toleration of normal stress levels, responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting. The Claimant also has significant physical limitations regarding sitting, standing, bending and lifting due to his physical disabilities.

CONCLUSIONS OF LAW

MA-P 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 administers MA-P 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 Bridges Reference Manual (RFT).

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 [REDACTED] in the record indicates that the Claimant has extreme limitations in the following areas:

1. The ability to perform activities within a schedule, maintains regular attendance, and be punctual within customary tolerances.
2. The ability to complete a normal workday and workweek without interruptions from psychologically-based symptoms and to perform at a consistent pace without an unreasonable number of and length of rest periods.
3. The ability to respond appropriately to changes in the work setting.

The [REDACTED] in the record also indicates that the Claimant has marked limitations in the following areas:

1. The ability to maintain attention and concentration for extended periods.
2. The ability to travel in unfamiliar places or use public transportation.
3. The ability to tolerate normal levels of stress.

The [REDACTED] in the record also indicates that the Claimant has moderate limitations in the following areas:

1. The ability to understand and remember detailed instructions.
2. The ability to carry out detailed instructions.
3. The ability to work in coordination with our proximity to others without being distracted by them.
4. The ability to make simple work-related decisions.

The [REDACTED] in the record indicates that the claimant is mildly limited in almost every category regarding social interaction. The Claimant has a GAF score of 50 and his prognosis is guarded. The Claimant testified that he has lost weight in the last year because of his depression.

The objective medical evidence in the record indicates that the Claimant is seen several times a year to help manage his chronic low back and hip pain. The Claimant has a metal on metal joint in his hip which has since been recalled and has chronic hip pain. The Claimant will require hip revision/replacement and a program of repeated nerve block injections. The Claimant has daily severe lower back pain and right hip pain and has a very poor tolerance for standing and sitting for continuous periods. The Claimant's prognosis is very guarded and he will likely require a total hip revision as well as ongoing pain management.

The Claimant can only stand for 10 to 15 minutes at a time. He cannot sit upright for 6 to 8 hours because of his intractable low back pain and hip pain. The Claimant needs to lie down during the day and can walk less than one city block. The Claimant cannot lift even 5 pounds. The objective medical evidence in the record indicates that as early as [REDACTED] the Claimant had straight leg raising maneuvers that were positive and some irritability of his hip as it is without motion. The Claimant has a right L5 radiculopathy. An older MRI indicates that there is a prominent disc bulge at the L5-S1 with a tiny protrusion extending posteriorly to the right and slightly inferior to the disk space where it appears to impinge slightly on the right S1 nerve root. There are also mild disc bulges at the L3-four and L4-five. The Claimant has difficulty lifting, pulling, holding objects, bending, squatting, and kneeling.

In this case, this Administrative Law Judge finds that the Claimant may be considered presently disabled at the third step. The Claimant appears to meet listing 12.04 or its equivalent as well as listing 1.02. 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 as of [REDACTED].

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated [REDACTED], 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 [REDACTED]



Susanne Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

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

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

SEH / tb

cc:

